# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

No. 233.

JOHN WILSON, WILLIAM FAGAN, AND BENJAMIN MILLER, AS WILSON, FAGAN AND COMPANY, AND JOHN CHAFFEE AND CHARLES CHAFFEE, AS JOHN CHAFFEE AND BROTHER, INTERVENERS, APPELLANTS,

vs.

JESSE K. BELL AND A. Q. KENNETT, AS KENNETT AND BELL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF LOUISIANA.

FILED NOVEMBER 4, 1872.

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1 UNITED STATES OF AMERICA:
United States circuit court, fifth circuit, and district of Louisiana.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANA, HER TACKLE, &C. } No. 6680.

TRANSCRIPT FROM UNITED STATES DISTRICT COURT.—FILED MARCH 28TH, 1872.

United States district court for the district of Louisiana.—In admiralty.

J. D. COX & AL.
*vs.*
ST'R LOTAWANA, HER TACKLE, &C. } No. 4642.

*Libel.—Filed Dec. 30th*, 1870.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of Jonathan D. Cox and Jasper N. Geren, mariners,
2 against the steamer Lotawana, her tackle, apparel, machinery, and furniture, whereof N. Puckett is now or late was master, now lying in the port of New Orleans, and against all persons intervening for their interest therein, in a cause of substraction of wages, civil and maritime, alleges as follows:

I. That the steamboat Lotawana, whereof was master, being in the port of New Orleans on the of November, 1869, engaged in commerce and navigation, making voyages between the ports of New Orleans and various ports and places on Red River and its tributaries, the master of said boat shipped and employed libellants as pilot of said boat, at the wages of $500 per month each.

II. That libellants both entered on board of said boat on the same day, November, 1869, and continued on said boat, performing their duties of pilots of said boat up to the 9th of May, 1870, when the boat laid up for the season, owning the first of libellants eight hundred and seventy-six dollars, and last six hundred and seventy-four $\frac{28}{100}$ dollars,
3 for wages as pilots.

III. That, on the 29th of November, 1870, the said boat, being again in the port of New Orleans, and bound on a voyage to Shreveport, the master of said boat, N. Puckette, shipped and hired libellant, J. D. Cox, as pilot of said boat at the monthly wages of $500.

IV. That libellant immediately went on board, and entered into the employ of said boat as pilot, and continued as such up to the 29th of December, 1870; and that during that time the said boat made two voyages between New Orleans and Shreveport, and now owe libellant a balance of wages on said voyages of $430.

V. That, during the whole time libellants were employed on board of said boat as aforesaid, they well and faithfully discharged their duties as pilots of the same, and were obedient to all commands of the master and officers of said boat, and that there is now due them for services on said boat the sum set forth opposite their respective names, to wit: J. D. Cox, thirteen hundred and six dollars; J. N. Geven, six hun-
4 dred and seventy-four $\frac{28}{100}$ dollars, being the balance due them for

wages as pilots of said boat; all of which will more fully appearby reference to the detail bills annexed to and made part hereof.

VI. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that process according to law and the course of this honorable court in causes of admiralty and maritime jurisdiction do issue against the said steamboat Lotawana, her tackle, apparel, machinery, and furniture, and that all persons claiming any interest in said vessel be cited to appear and answer the matters aforesaid; and that, after due proceedings had, *that* this honorable court will be pleased to decree in favor of libellants for their respective claims as set forth above, with costs, and that said steamboat Lotawana be condemned and sold to pay the same. And libellants pray for all general relief.

(Signed) BENTWICK EGAN, *Proctor.*

5 (Signed) J. D. COX,
*For myself and J. W. Geren.*

Sworn to and subscribed before me this 30th December, 1870.
(Signed) K. LOEW, *U. S. Com'ner.*

*Order.*

Let admiralty process issue as prayed for.
December 30th, 1870.
(Signed) K. LOEW, *D'y Clerk.*

*Documents annexed to libel.*

Due, New Orleans, La., April 13th, 1870, Mr. J. N. Geren, eight hundred and sixty-seven dollars, balance due on wages.
$867.00.] ST'R LOTAWANA AND OWNERS.
C. DEWEESE, JR., *Clerk.*

(Endorsed:)
Paid, May 10th, 1870, forty-two $\frac{70}{100}$ dollars.
DEWEES.

Paid, May 31st, 1870, one hundred and fifty dollars.
BEDEAU.

NEW ORLEANS, 1870.

6 *Steamboat Lotawana to J. N. Geren, Dr.*

For wages as pilot of the boat from—

| | | |
|---|---|---|
| 16th January to 1st Feb'y, 1870, at $500 per month | $283 33 | |
| 2d Feb'y to 20th | 316 67 | |
| | | $600 00 |
| By cash on those | | 181 45 |
| Balance | | $418 55 |

| | | |
|---|---|---|
| 21st Feb'y to 11 March, 1870, @ $500 per month | $316 67 | |
| By cash on this | 68 55 | |
| Balance | | 248 12 |
| 12 March to 3d April, 1870, @ $500 per month | $383 33 | |
| By cash on this | 183 | |
| | | 200 33 |
| Balance for which due-bill was given | | $869 00 |
| 10 May, 1870. By cash | $40 00 | |
| 30 " " " " | 150 00 | |
| | $190 00 | $190 00 |
| Balance due | | $679 00 |

NEW ORLEANS, *December 31st*, 1870.

This is to certify that J. D. Cox has worked on steamer Lotawana as pilot, from 29th November to December 28th—say 30 days, at $500 per month.

Cr.—By cash, $60$\frac{00}{100}$.

FRED. V. CELLOS, *Clerk.*

7 Due, New Orleans, La., April 13th, 1870, Mr. J. D. Cox, eleven hundred and twenty-six dollars, balance due on wages.

$1,126.00.] ST'. LOTAWANA & OWNERS.

(Signed) C. DEWEESE, JR., *Clerk.*

(Endorsed:) Paid, May 30th, 1870, two hundred and fifty dollars.
DEWEESE.

NEW ORLEANS, *Dec.* , 1870.

*St'r Lotawana to J. D. Cox, Dr.*

| | | |
|---|---|---|
| For wages as pilot of steamer Lotawana from— | | |
| 16th Jan'y to 1st Feb'y, 1870, @ $500 per month | $283 33 | |
| 2d Feb'y to 20th | 316 67 | |
| | | $600 00 |
| By cash on those, $20 and $80—total | | 100 00 |
| Balance due | | $500 00 |
| 21st Feb'y to 11th March, 1870, @ $500 per month | | $316 67 |
| 12 March to 3 April | 383 33 | |
| By cash on this, $14, & $60—total | 74 00 | |
| Balance due | | 309 33 |
| Bal. for which due-bill was given | | $1,126 00 |
| 30 May. By cash, (1870) | | 250 00 |
| Balance | | $876 00 |
| 29 Nov., 1870, to 28 Dec., 1870, @ $500 per month | | 500 00 |
| Balance | | $1,376 00 |
| 8 By cash on this | | $60 |
| Bal. due for wages as pilot | | $1,316 00 |

*Admiralty warrant.*

J. D. COX & AL.
*vs.*
ST'M'R LOTAWANA, TACKLE, &C. } No. 9642.

The President of the United States of America to the marshal of the district of Louisiana, or his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take, the steamboat Lotawana, her tackle, &c., now libelled by J. D. Cox & al., for the causes set forth in the libel now pending in district court of the United States for the district of Louisiana; that you do cite and admonish the owner or owners and all and every other persons or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New
9 Orleans on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said steamboat should not be condemned and sold agreeably to the prayer of libellant; and how you have executed this warrant that you make return according to law.

Witness the honorable Edward H. Durell, judge of the said court, at New Orleans, this 30th day of December, 1870, and the 95 year of the Independence of the United States.

[SEAL.] (Signed) K. LOEW, *D'y Clerk.*

*Marshal's return.*

Received Dec. 30th, 1870, by the United States marshal, and on the same day and year, seized and took into my possession the steamboat Lotawana, her tackle, etc. Served warrant on Nat. Buckett, master. Published monition in the New Orleans Republican, a newspaper published in this city on the 1st, 4th, 27th, & 2d day of February, 1871.

(Signed) F. A. WOOLFLEY,
*D'y U. S. Marshal.*

10 *Monition.*

J. D. COX & AL.
*vs.*
STEAMBOAT LOTAWANA, HER TACKLE, &C. } No. 9642.

In the United States district court, district of Louisiana.

In obedience to an admiralty warrant, to me directed in the above-entitled suit, I have seized and taken into my possession the steamboat Lotawana, her tackle, &c., now libelled by J. D. Cox et al., for the causes set forth in the libel now pending in the district court of the United States.

And I do hereby cite and admonish the owner or owners thereof, and all and every persons or persons having or pretending to have any right, title, or interest in or to the same, to be and appear at a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the first Monday of February, 1871, to show cause, if any they have or can, why the said steamboat, etc.,

11 should not be condemned and sold agreeably to the prayer of libellants.

The United States marshal's office, New Orleans, 1st day of January, 1871.

S. P. PACKARD,
*United States Marshal.*

Ja. 1, 4, 27; Fe. 2.]

*Petition to sell.—Filed December 30th, 1870.*

JONATHAN D. COX ET AL.
*vs.*
ST'R LOTAWANA, HER TACKLE, &C. } No. 9642.

United States district court.

The petition of Jonathan D. Cox and Gasper N. Gevens, libellants in the above cause, respectfully represent that they have libelled the steamer Lotawana for mariners' wages due them; that said boat is expensive to keep, perishable in her nature, and ought to be sold.

Wherefore libellants pray that an order be directed to the United States marshal to sell the said steamboat Lotawana, her tackle, apparel, machinery, and furniture, after the legal advertisement, as perishable and expensive to keep, and libellants pray for general

12 relief.

(Signed) BENTWICK EGAN, *Proctor.*

*Affidavit of Joseph Morgan.*

And now comes Joseph Morgan, who, on oath, says, he owns ¾ of the steamer Lotawana, and has no objection to the boat's being sold at once.

(Signed) JOSEPH MORGAN.

Sworn to and subscribed before me this 30th Dec., 1870.
(Signed) K. LOEW, *U. S. Com'ner.*

*Order to sell boat.*

Considering the allegations of the petition, and the consent of the party on file—

Ordered that the steamboat Lotawana be sold by the marshal, together with her tackle, apparel, &c., after the usual legal advertisements. The proceeds of sale to be deposited in the registry, subject to the further orders of the court.

December 30th, 1870.
(Signed) E. H. DURELL, *Judge.*

13 *Intervention of Thomas Ford, E. Ellensworth, Daniel Sewell, C. Yerger, Thomas Chapman, James Hailey, John Hepting, Charles Miller.—Filed January 7th, 1871.*

J. D. COX & J. GEVEN
*vs.*
ST'R LOTAWANA, HER TACKLE, &C.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Thomas Ford, E. Ellensworth, Daniel Sewell, C. Yerger, Tho's Chapman, James Hailey, John Hepting, Charles

Miller, late mariners on the steamboat Lotawana, against said steamboat Lotawana, whereof N. Puckett late was master, her tackle, apparel, machinery, and furniture, and all persons intervening for their interest therein, in a cause of wages, civil and maritime, alleges as follows:

I. That in the month of December, 1870, the steamboat was
14 engaged in commerce and navigation between the ports of New Orleans and various ports and places on Red River, as far up as Shreveport.

II. That on various dates in the said month of December, the steamboat Lotawana being in the port of New Orleans, the master of said boat shipped and hired libellants, to serve on said, in the capacities of foreman, deck-hands, deck-sweepers, &c., as set forth opposite their respective names for the wages due by said boat to them for their services on said boat; in acknowledgment of which the clerk of said boat has given libellants certificates, to wit: Thomas Ford, for 12 days' wages as deck-hand, at $60 per month, $24.00; E. Ellensworth, 14 days' wages as fireman, @ $50 per month, 23.25; D. Sewell, for 14 days' wages as deck-hand, at $60 per month, 24.00; C. Yerger, for 15 days' wages
15 as fireman, @ $50 per month, 25.00; Tho's Chapman, for 15 days' wages as fireman, for $50 per month, $25.00; James Hailey, for 14 days' wages as deck-hand, at $60 per month, 23.25; John Hepting, for 4 months & 15 days' wages as deck-sweeper, at $15, 90.00; Charles Miller, for 4 days' wages as watchman, at $2.00 per day & 3 days' board, at $1.50 per day, 12.50; all of which will more fully appear by reference to their certificates given by Ford V. Cellos, clerk of said boat, and the written acknowledgment of Joseph Morgan, one of the owners of said boat, annexed and made part hereof.

III. That libellants entered into the services of said boat in their several capacities stated above, and well and truly performed their several duties on said boat during the time stated above, and that the said boat now owes them the amounts claimed by them respectively for services rendered by them on said boat in their several capacities aforesaid.

16 IV. That said steamboat Lotawana has been seized and is now about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

V. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court.

Wherefore libellants pray that this intervention be filed and that process, according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamboat Lotawana, her tackle, apparel, machinery, and furniture; and that all persons claiming any interest in the same may be cited to appear and answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree in favor of libellants for the amounts of their respective claims, as set forth above, to be paid with privilege and preference over all other creditors out of the proceeds of sale of said vessel, with all costs of suit; and libellants pray for
17 general relief.

(Signed) BENTWICK EGAN, *Proctor.*

BENTWICK EGAN, being sworn, says, that he is proctor for intervenors in the above cause, and all the facts and allegations in the foregoing libel of intervention are true and correct to the best of his knowledge and belief; and he believes intervenors are all absent from this city.

(Signed) BENTWICK EGAN.

Sworn to and subscribed before me this 7th Jan'y, 1871.
(Signed) K. LOEW, *Dy-Clerk.*

(Endorsed :) Service accepted January 10th, 1871.
(Signed) R. DE GRAY.

*Documents annexed to intervention.*

NEW ORLEANS, *December 28th*, 1870.

This is to certify that Thomas Ford has worked on the st'm'r Lotawana, from December 17th to 28th, 1870, @ $60 per month, say 12 days, as deck-band.

FER'D V. CELLOS, *Clerk.*

18 NEW ORLEANS, *Dec. 28th*, 1870.

This is to certify that Ned Ellensworth has worked on st'r Lotawana, from 14th December to 27th, 1870, say 14 days, at $50 per month.

FER'D V. CELLOS, *Clerk.*

NEW ORLEANS, *Dec. 28th*, 1870.

This is to certify that Daniel Sewell has worked on st'r Lotawana, from 17th to 28th, 1870, say 12 days, at $60 per month, as deck-hand.

FER'D V. CELLOS, *Clerk.*

NEW ORLEANS, *Dec. 28th*, 1870.

This is to certify that Christ. Yeager has worked from December 14th 28th, 1870, say 15 days, at $50 per month, on st'r Lotawana.

FER'D V. CELLOS, *Clerk.*

NEW ORLEANS, *Dec. 28th*, 1870.

This is to certify that Tom Chapman has worked on st'r Lota-
19 wana, from Dec. 14th to 28th, 1870, say 15 days, at $50 per month.

FER'D V. CELLOS, *Clerk.*

NEW ORLEANS, *Dec. 28th*, 1870.

This is to certify that Jim Hailey has worked on st'r Lotawana, from December 14th to 27th, 1870, say 14 days, at $50 per month.

FER'D V. CELLOS, *Clerk.*

*St'r Lotawana, Dr. John Hepking.*

For 4 months and 15 days, at $15.00 per month as deck-sweeper ..... $90 00

JOSEPH MORGAN.

*St'r Lotawana, Dr. to Charles Miller.*

For 4 days' wages, @ $2 p'r day ..... $8 00
3 " board, @ $1.50 ..... 4 50

$12 50

JOSEPH MORGAN.

*Interrention of John Gallow.—Filed January 7th*, 1871.

United States district court of Louisiana.

J. D. COX ET AL.
*vs.*
STEAMBOAT LOTAWANA.

John Gallow, of the city of New Orleans, exhibit' this libel against the steamboat Lotawana, whereof now is or lately was master, now being in the custody of the marshal of the district aforesaid under arrest in virtue of a warrant issued out of this honorable court at the suit of

in a cause of substraction of wages civil and maritime, her boats, tackle, apparel, and furniture, and against all persons lawfully intervening for their interest therein in a cause of contract, civil and maritime; and thereupon the said John Gallaw do' allege and articulately propound as follows, to wit:

First. That, at the times mentioned in the bill of items hereto annexed, the said steamboat Lotawana, being then in the city of New Orleans and district aforesaid, the master of said steamboat stood in need of the repairs and supplies in said bill of items mentioned in
21 order to render her seaworthy and competent to perform her intended voyage and trips, and requested the libellants to make said repairs and furnish said supplies; and that libellants, in pursuance of said request, did make the repairs and furnished the supplies as mentioned in said bill of items attached as aforesaid.

Second. That the said steamboat Lotawana was, at the time when the repairs were made and supplies furnished, a foreign vessel owned by some person or persons not residing in the State of Louisiana, and are to the libellants unknown.

Third. That the said repairs were made and supplies furnished by the libellants on the credit of the said ship, as well as of the owners thereof, and were suitable, proper, and necessary for the purpose of enabling said steamboat to make the trips in safety; and that the amounts still due are as stated in said bills of items attached as aforesaid.

Wherefore the libellants pray that process of monition may
22 issue to the marshal of the district aforesaid, commanding him to cite and admonish all persons having, or pretending to have, any right, title, or interest in the said steamboat Lotawana, her boats, tackle, apparel, and furniture, to appear before this honorable court on the day of , or such other day to be inserted in said monition as the court shall direct, then and there to answer the libellants in the premises according to the course of courts of admiralty and maritime jurisdiction, and that this honorable court will decree for the libellants' aforesaid demand, and decree the same to be paid with cost.

(Signed) RICHARD DE GRAY, *Proctor.*

(Endorsed:) Let this intervention be filed.
Jan'y 7th, 1871.
(Signed) E. H. DURELL, *Judge.*

(Endorsed:) Service accepted.
(Signed) B. EGAN,
*Proctor for Libellants.*

23 *Document annexed to intervention of John Gallow.*

NEW ORLEANS, *Dec. 17th*, 1870.

*Str. Lotawana to John Gallow, machine and ship blacksmith, No. 226 Front Levee street, near Gaiene, Dr.*

| | |
|---|---|
| 24 stirrups, 1 screw-bolt, 126 lbs., @ 15c | $18 90 |
| 2 rudder irons & bolts, 71 lbs., 25c | 17 75 |
| 12 flange-bolts, 40c | 4 80 |
| | $41 45 |

I do solemnly swear that the above account of $41.45 is just and correct, and that no portion thereof has been paid.

New Orleans, La., 23d Jan'y, 1871.

(Signed) JOSEPH WILLIAMS.

Sworn to and subscribed before me this 23d Jan'y, 1871.

(Signed) J. M. WELLER, *U. S. Com'ner.*

*Intervention of city of New Orleans.—Filed January 9th*, 1871.

In admiralty.

To the honorable the judge of the district court of the United States for the district of Louisiana:

24 The city of New Orleans, a municipal corporation chartered by the laws of Louisiana and domiciliated in the parish of Orleans, State of Louisiana, through Benjamin F. Flanders, her mayor, exhibits this, her libel of intervention against the steamboat Lotawana, whereof Nat. Puckett is, or lately was master, now being in the custody of the United States marshal of the district aforesaid, under arrest, in virtue of a warrant issued out of this honorable court at the suit of J. D. Cox et al. of the city of New Orleans, State of Louisiana, in a cause of contract, civil and maritime, her boats, tackle, apparel, and furniture, and against all other persons lawfully intervening for their interest therein.

And therefore the said city of New Orleans, through its mayor, doth allege and articulately propound as follows:

First. That on or about the 28th day of December, 1870, the said steamboat Lotawana, whereof the said Nat Purchett was master,

25 being then and there in the port of New Orleans, was moored and made fast to the wharf of said port; that she thus remained thus moored for several days, and by reasons thereof the said steamboat Lotawana became indebted to the city of New Orleans in the sum of twenty-two $\frac{30}{100}$ dollars for wharfage dues; all of which will more fully and at large appear by reference to the amount hereto annexed and made part hereof.

Second. That the aforesaid sum of twenty-two $\frac{30}{100}$ dollars is now due and owing, and still remains unpaid, notwithstanding amicable demand has been made for the same.

Third. That, for the payment of the claim hereinabove set forth and described, the said city of New Orleans has not only a maritime and admiralty lien and privilege upon said steamboat Lotawana, her tackle,

boats, furniture, &c., but also a lien and privilege under the laws of the State of Louisiana, as in such case made and provided.

26 Fourth. That all and singular the premises are true.

Wherefore the libellant prays that process of monition may issue to the marshal of the district aforesaid, commanding him to cite and admonish all persons having or pretending to have any right, title, or interest in the said steamboat, her boats, tackle, apparel, & furniture, to appear before this honorable court on such day to be inserted in said monition as the court shall direct, then and there to answer the libellant in the premises, according to the course of courts of admiralty and the rule and practice of this honorable court in civil causes of admiralty and maritime jurisdiction; and also that a warrant of arrest in due form of law may issue to said marshal against the said steamboat Lotawana, her boats, tackle, apparel, and furniture; and that this honorable court will pronounce for the libellant's aforesaid demand, and decree the same to be paid, with costs and proctor's customary fee.

(Signed) BENJ. F. FLANDERS,
*Mayor.*

27 (Signed) GEO. S. LACEY,
*City Att'y & Proctor.*

Sworn to and subscribed before me this 9th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

(Endorsed:) Service accepted. January 10th, 1871.
(Signed) R. DE GRAY.

*Intervention of McCloskey, Bigley & J. M. Peterson.—Filed January 10th, 1871.*

J. D. COX & AL.
*vs.*
ST'R LOTAWANA, HER TACKLE, &C.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention, McCloskey, Bigley & Co., residing and doing business in New Orleans, and of James M. Peterson, also residing and doing business in New Orleans, against the steamboat Lotawana, whereof L. Q. C. Puckett, late was master, now within the jurisdiction of this honorable court, and under seizure in the above cause, her
28 tackle, apparel, machinery, and furniture, in a cause of contract, civil and maritime, alleges as follows:

1°. That the steamboat Lotawana, whereof L. Q. C. Puckett, late was master, being in the ports of New Orleans and Baton Rouge, in this State, in the months of Feb'uary, March, April, and December, 1870, and bound on voyages between New Orleans and various ports and places on Red River, engaged in commerce and navigation, the master of said boat applied to and purchased from libellants, at this port, and also at the port of Baton Rouge, various quantities of coal, for fuel for said boat, to enable her to prosecute her said voyages.

2°. That there is now due to libellants, McCloskey, Bigley & Co., the sum of eight hundred and nine $\frac{75}{100}$ dollars, ($809$\frac{75}{100}$,) being the balance due for coal sold and delivered by them to said boat, at New Orleans, in the months of Feb'uary, March, April, & December, 1870, a towage-

bill, and to libellant, James M. Peterson, four hundred and sixty-
29 seven $\frac{50}{100}$ for coal sold and delivered by them to said boat at Baton Rouge, in December, 1870; all of which will more fully appear by the due-bills and bills annexed and made part hereof.

3°. That the coal sold and delivered by libellants to said boat as aforesaid, was absolutely and indispensably necessary to enable said boat to prosecute her said voyages; that the prices charged for the same was just and reasonable, and was sold and delivered by libellants to said boat on her credit, and could not have been procured on the credit of her owners.

4°. That said boat is now under seizure, by virtue of admiralty process issued from this honorable court in the above cause, and is about to be sold.

5°. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed,
30 and that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction may issue against the steamboat Lotawana, her tackle, &c.; and that all persons claiming any interest in said vessel be cited to appear and answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of the amount due libellants, as aforesaid, and all costs of suit, and libellants pray for general relief.

(Signed) P. G. BIGLEY.
( " ) J. M. PETERSON.
( " ) BENTWICK EGAN,
*Proctor.*

Sworn to and subscribed before me this 10th day of Jan'y, 1871.
(Signed) CHA'S CLAIBORNE,
*U. S. Comm'r.*

(Endorsed:) Service accepted January 10th, 1871.
(Signed) R. DE GRAY.

*Documents attached to intervention.*

$255.00.] BATON ROUGE, *Dec.* 18*th*, 1870.

Due Ja's M. Peterson & Co., or order, two hundred and fifty-
31 five dollars, for 300 boxes of coal, at per box.
ST'R LOTAWANA AND OWNER.
(Signed) FER'D V. CELLOS, *Clk.*

$212.50.] BATON ROUGE, *Dec.* 1*st*, 1870.

Due Ja's M. Peterson, or order, two hundred and twelve $\frac{50}{100}$ dollars for 250 boxes coal, at 85c. per box.
STEAMBOAT LOTAWANA & OWNERS.
(Signed) FER'D V. CELLOS, *Clk.*

NEW ORLEANS, *December*, 1870.

*Bought of James Peterson, coal-dealer, 164 Gravier str.*

1870.
Dec. 1st. To 250 boxes Pitts. coal, @ 85 ..... 212 50
18. " 300 " " " " " ..... 255

$467 50

$300.] NEW ORLEANS, *Dec. 18th*, 1870.

Due McCloskey, Bigley & Co., or order, three hundred dollars, for 300 boxes coal at per box.

ST'R. LOTAWANA & OWNERS.
(Signed) FER'D V. CELLOS, *Clerk.*

$162.50.] NEW ORLEANS, *April 30th*, 1870.

Due McCloskey, Bigley & Co., or order, one hundred and sixty-two $\frac{50}{100}$ dollars, for 250 boxes coal at 65c. per box.

STEAMBOAT LOTAWANA & OWNERS.
32 (Signed) C. DEWEESE, JR., *Clerk.*

$195.00.] NEW ORLEANS, *March 16th*, 1870.

Due McCloskey, Bigley & Co., or order, one hundred and ninety-five dollars, for 300 boxes coal at 65c. per box.

STEAMBOAT LOTAWANA & OWNERS.
(Signed) C. DEWEESE, JR., *Clerk.*

$195.00.] NEW ORLEANS, *Feb'y 3d*, 1870.

Due McCloskey, Bigley & Co, or order, one hundred and ninety-five dollars, for 300 boxes coal at 65c. per box.

STEAMBOAT LOTAWANA & OWNERS.
(Signed) C. DEWEESE, JR., *Clerk.*

(Endorsed:) Received May 30th, on ac. this due-bill.
McC. B. & CO.
M .

*Steamer Lotawana Dr. to McCloskey, Bigley & Co., coal merchants.*

June 15th. Towages by Fern ..... $10.00

*Intervention of John Hennessey, Nicholas Theodore & als.—Filed January 13th*, 1871.

33 J. D. COX, & AL.
*vs.*
ST'R LOTAWANA, HER TACKLE, &C.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of John Henessey, copper, tin, brass, and iron worker, residing and doing business in New Orleans; of Nicholas Theodore, residing and doing business in New Orleans as lumber merchant; of M. J. Taylor, residing and doing business in New Orleans as a copper, tin, and sheet iron worker; of Moffit & Brown, residing

and doing business in New Orleans as lumber merchants; of Doughty & McHaffier, residing and doing business in New Orleans as ship-carpenters; of W'm H. Reynolds, residing and doing business in New Orleans as foundry-man; of Crescent City Ice Co., George Coats, J. B. Pigniolo, England, Fallon & Co., and Brady and Palmer, against the steamboat Lotawana, whereof Puckett late was master, now lying in the port of New Orleans, her tackle, apparel, machinery, and
34 furniture, and against all persons intervening therein, in a cause of contract, civil and maritime, alleged as follows:

I. That on various dates in the year 1870 the said steamboat Lotawana, being in the port of New Orleans and engaged in commerce and navigation between the said port and various points and places on Red River and its tributaries, and in need of various repairs, materials, and supplies to enable her to prosecute her said voyages, the master of said boat applied to and purchased from your libellants, at various dates, the articles mentioned and described in their several bills annexed to and made part hereof.

II. That the supplies, materials, and labor described and charged for in libellants' respective bills were actually purchased for and used on said boat on the dates therein mentioned, and were absolutely and indispensably necessary to enable said boat to prosecute the said voyages, and were sold and delivered by libellants to said boat on her credit, and could not have been procured on the credit of her owners,
35 and that the prices charged for the same are just and reasonable.

III. That there is now due libellants for the material, supplies, and labor sold and delivered by them, respectively, the amounts set forth opposite their respective names, to wit: John Hennessey, for labor and materials, $128.42; Niicholas Theodore, for labor and materials, 225.00; S. H. Gatwood, for lumber, 296.00; M. J. Taylor, for labor & materials, 142.35; Moffett & Brown, for lumber, 42.50; Doughty & & McHaffier, for labor and materials, 25.00; W'm H. Reynols, for foundry work, 100.00; Crescent City Ice Co., for ice, 30.00; George Coats, opening and repairing safe door, 20.00; England, Fallon, & Co., for supplies of fish, 40.50; Brady & Palmer, for lumber, 38.05; all of which will more fully appear by reference to the detail bills annexed to and made part hereof.

IV. That the said steamboat Lotawana is now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

36 V. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed; that process, in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamboat Lotawana, her tackle, apparel, machinery, and furniture; and that all persons claiming any interest in said vessel may be cited to appear and answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree in favor of libellants for the payment of their respective demands, with privilege on said boat or her proceeds, and all costs of suit; and libellants pray for general relief.

(Signed) BENTWICK EGAN, *Proctor.*
( " ) T. R. BRADY.

Sworn to and subscribed before me this 13th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Order.*

37 Let this intervention be filed.
January 13th, 1871.
(Signed) E. H. DURELL, *Judge.*

*Documents annexed to libel of intervention of John Hennessey & als.*

NEW ORLEANS, *Nov. 29th*, 1870.

*Steamboat Lotawana to John Henness'y, Dr.*

| | |
|---|---|
| To 1 connection for h'atters, 2 copper flanges, 2 elbows, 2 wrought-iron flanges, 12 holes drilled, 12½, and 2 bolts and 2 dozen washers, all complete | $35 00 |
| " 30 lbs. brace for heaters, @ 25 | 8 50 |
| " 12½-inch holes braced & tapped | 1 20 |
| " 24 bolts of sheet-iron for strainers, @ 8c | 11 52 |
| " mechanic's labor punching holes in strainer | 6 00 |
| " 48 lbs of 5-in. copper bend for steam-pipe, @ 65c | 31 20 |
| " 2 braced joints or steam-pipe | 10 00 |
| " 1 braced patch in steam-pipe | 6 00 |
| 2 drayages | 1 50 |
| | $114 92 |
| | 13 50 |
| | $128 42 |

38 NEW ORLEANS, *Dec. 17th*, 1870.

*Steamboat Lotawana to John Hennessy, Dr.*

| | |
|---|---|
| To repairing 5-inch copper steam-pipe and bracing one patch on same | $12 00 |
| 2 drayages | 1 50 |
| | 13 50 |

NEW ORLEANS, *July 21st*, 1870.

*Steamboat Lotawana to Nicholas Theodore, Dr.*

| | |
|---|---|
| Building furnaces, materials and laborers | $125 00 |
| Taking down chimneys and painted | 50 00 |
| Paving under the boilers and furnaced, materials & laborers | 50 00 |
| | $225 00 |

(Signed) JOSEPH MORGAN.

NEW ORLEANS, , 187 .

*The St'r Lotawana & Owners to Samuel H. Gatwood, Dr.*

| | | | |
|---|---|---|---|
| Jan'y 15th. | 1,039 feet bucket-plank, @ 3¼c | | 38 96 |
| | 168 feet poplar braces, @ 5c | | 8 40 |
| | 104 " oak battoms, " 6c | | 6 24 |
| | 40 pieces " keevy, " 25c | | 10 00 |
| | 96 feet 2 × 8 facing, " 3¾ | | 3 71 |
| | 100 " 2 × 6 " " 3¾ | | 3 75 |
| | Cartage | | 4 50 |
| Feb'y 1. | 2 pieces 4 × 12, 155 feet, @ 3½ | | 5 42 |
| 39 | 3 pieces 4 × 4, 99 feet, @ 3½ | | 3 46 |
| | 2 " 3 × 10, 90 " " 4 | | 3 60 |
| | 1 piece oak 49 " " 7½ | | 3 67 |
| | 50 feet poplar | 5 | 2 50 |
| | 20 " cypress | 5 | 1 00 |
| | Cartage | | 2 00 |
| Feb'y 23d. | 1026 feet tuch boards, @ 3c | | 30 78 |
| | 520 " buck-planks, @ 4c | | 20 80 |
| | 40 " 1½ × 12 " 3½ | | 1 40 |
| | 98 " 8 × 12 " 4 | | 3 92 |
| | 60 " poplar " 5 | | 3 00 |
| | 68 " 4 × 8 " 3½ | | 2 38 |
| | Cartage | | 4 00 |
| March 15th. | 366 feet 13 × 13 pine, @ 4 | | 14 64 |
| | 104 " 4 × 12 | 4 | 4 16 |
| | 53 " 3½ × 12 oak, | 6 | 3 18 |
| | 27 " 6 × 6 | 4 | 1 08 |
| | 30 " 2 tuchs, | 6 | 1 80 |
| | 445 " 1 do plank, | 3 | 13 35 |
| | 67 " 1 × 8 | 4 | 2 68 |
| | Cartage | | 2 50 |
| April 14th. | 90 feet 4 × 4 | 3½ | 3 15 |
| | 100 " decking, | 4 | 4 00 |
| | 450 " 2 × 6 dec., | 4 | 18 00 |
| | 12 pieces 1½ circles | 1.50 | 18 00 |
| | 50 feet oak battons, | 6 | 3 00 |
| | 60 " 5-in. oak, | 6 | 3 60 |
| | Sawing & cartage 3 loads | | 4 25 |
| April 29th. | 108 feet 4 × 10 | @ 4c | 4 32 |
| | 175 " buckett plank, " 4c | | 7 00 |
| | 58 " poplar, | 6 | 3 48 |
| | 100 " 4 × 4 | 4 | 4 00 |
| 40 | 131 feet oak, | @ 6 | 7 86 |
| | Cartage | | 3 00 |
| | 91 feet oak battons, 6 | | 3 46 |
| | | | $296 00 |

Due, $296.00.] NEW ORLEANS, *Oct.* 1*st*, 1870.

Due by st'r Lotawana & owners to S. H. Gatwood for lumber bill, the sum two hundred and ninety-six dollars.

(Signed) JOSEPH MORGAN,
*Cap't St'm'r Lotawana.*

(Endorsed:) S. H. Gatwood.

NEW ORLEANS, *Nov. 29th*, 1870.

*Steamer Lotawana to M. J. Taylor, Dr.*

| | | | |
|---|---|---|---|
| Nov. 11th. | 75 feet stove-pipe, @ 50c | | $37 50 |
| | 3 large deck flanges, " 1.75 | | 2 25 |
| | 4 goose-neck elbows, 2.00 | | 8 00 |
| | 3 stove-pipe caps 1.00 | | 3 00 |
| | 1 swivel crupper-pipe | | 2 50 |
| | 1 stay for stove-pipe | | 75 |
| | Ferriage to boat | | 75 |
| | 24 ft. tin pipe for forge, @ 50 | | 12 00 |
| | 2 goose-neck elbows, 2.50 | | 5 00 |
| | 1 large deck-flange | | 1 75 |
| | 1 stove-pipe cap | | 1 00 |
| | 1 day labor for mechanic; 1 help | | 6 00 |
| 17th. | 10 feet stove-pipe, @ 50 c | | 5 00 |
| | ½ day labor for mechanics & help, fitting up stoves | | 3 00 |
| 41 | Drayage to boat | | 2 00 |
| | 1 doz. burners | | 3 00 |
| | 1½ " pans @ $4.00 | | 6 00 |
| | 1 large pan | | 2 50 |
| | 1 funnel | | 25 |
| | 1 water bucket | | 2 00 |
| | ½ doz. pudding moulds | | 2 00 |
| | Repairing 2 dish pans | | 30 |
| | " 2 coffee boilers, 40 | | 80 |
| | " strainers and buckets | | 75 |
| | " 2 dish baskets, 50 | | 1 00 |
| | " and turning 7 chavon dishes, 25 | | 1 75 |
| | " 1 large steamer | | 1 25 |
| | " and brazing dripper-pan | | 75 |
| | " and turning 6 saucepans, @ 1.00 | | 6 00 |
| | 4 hot-water pans, 50 | | 2 00 |
| | 4 cake molds, 75 | | 3 00 |
| | 2 new steamer covers, 1.25 | | 2 50 |
| | 3 sheet iron dripper-pans, 2.00 | | 6 00 |
| | 1 large stock boiler | | 5 00 |
| | 1 brass cox | | 2 00 |
| | Forward | | 142 35 |
| | Amount bro't forward | | 142 35 |
| Nov. 26th. | 20 lbs. sheet iron lining @ 10c | | 2 00 |
| | 4 feet stove-pipe, 50c | | 2 00 |
| | 1 new ash-pan in stove | | 1 25 |
| " 28th. | Repairing and grinding cock | | 2 00 |
| | " 3 lanterns, 50 | | 1 50 |
| | " 5 lamps-bottoms, 20 | | 1 00 |
| | 4 Russia iron bread-pans | | 8 00 |
| | 2 skimmers, 60 | | 1 20 |
| | 2 ladles, 60 | | 1 20 |
| 42 | 2 eggs slices, 60 | | 1 20 |
| | 1 flour scoop | | 1 00 |
| | 1 Garvey strainer | | 1 50 |
| | 3 tin dippers, 50 | | 1 50 |

| | | | |
|---|---|---|---|
| | | 1 coffee boiler | 1 25 |
| | | 2 spoons, 50c | 1 00 |
| | | 1 buscuit cutter | 25 |
| Nov. | 28th. | 1 tait cutter | 25 |
| | | 2 forks, 60c | 1 20 |
| | | 12 feet of stove-pipe, @ 50c | 6 00 |
| | | 1 goose-neck elbow | 2 00 |
| | | 1 new cross-piece in cook-stove | 4 50 |
| | | Repairing cook-stove elbow | 2 00 |
| | | 1 new cross-piece in cook-stove | 4 50 |
| | | Repairing cook-stove & elbow | 3 50 |
| | | 1 cast iron deck stove | 16 00 |
| | | 301 lbs. sheet iron linning @ 10c | 3 00 |
| | | 1 large wash boiler | 1 50 |
| | | 3 coal buckets, @ 1.50 | 4 50 |
| | | 2 dust pans, 50 | 1 00 |
| | | | $214 65 |
| | | 1 new broiling-iron | 3 50 |
| | | | 218 15 |
| | | By cash | 108 |
| | | | 110 |

(Signed) LEONARD MARZ.

NEW ORLEANS, *Dec.* 15th, 1870.

*Str. Lotawana & Owners, bought of Moffett & Brown,*

| | | | |
|---|---|---|---|
| Dec. | 14th, | 13 cubic ft. oak timber to order, 10c | 16 25 |
| | | 94 feet of pine timber 7 × 16, sawed to order and cartage | 5 45 |
| | | Cartage | 75 |
| | | 56 double-dressed 1 in. white pine, 8 | 4 48 |
| | | 32 " " ½ cypress, 8 | 2 56 |
| | | 92 " oak wheel-arms, 3 in. sawed, 6 | 5 52 |
| | | 28 " poplar bracing, 3 " " 6 | 1 68 |
| | | Cartage | 75 |
| | 15th, | 21 feet dressed H. G. & cypress to width, 8 | 1 68 |
| | | 36 " " 8 | 2 88 |
| | | Cartage | 50 |
| | | | $425 50 |

NEW ORLEANS, *Dec.* 28, 1870.

*St'm'r Lotawana to Wm. Doughty & Co*

For building small stage and furnishing material, 25 00
Rec'd payment,
WM.

NEW ORLEANS, *April 29th*, 1870.

*Steamer Lotawana bought of Wm. H. Reynolds.*

| | | | | |
|---|---|---|---|---|
| Feb'y | 13th. | To 2 rudder irons, 65 lbs, 20c | 13 | 00 |
| | | " 8 drift bolts, 8 lbs, 8c., 1c | 1 | 00 |
| | | " 20 plates, 20c | 2 | 00 |
| | | " rebending bands | 1 | 00 |
| | | " 6⅝ bolts | | 75 |
| | | " rep. pintle bar | 1 | 25 |
| | | " 1 new pintle bar | 2 | 00 |
| 44 | | " drayage | | 75 |
| | 22d | " 24 ⅝ wheel stirrups, 85 lbs., 15c | 12 | 75 |
| | | " rep. lot bolts | 4 | 00 |
| | | " 3½×4 washers | 1 | 50 |
| | | " 3 rudder irons, 120 lbs., 25 | 30 | |
| | | " 20 drift bolts, 25 " 10 | 2 | 50 |
| | | " rep. 2 rudder irons | 3 | 00 |
| | | " lengthening cylinder timber stirrups | 3 | 65 |
| | | " 3 drayages | 1 | 50 |
| | | " 2⅝ button-head bolts | | 50 |
| | | " 1 link for guard chain | | 75 |
| | | " 3 ⅝ bolts, 25, 15 | 3 | 75 |
| | | " 1 1-inch hog chain, 130, 15 | 19 | 50 |
| | | " 1¼ pint.-bar | 3 | 00 |
| | | " rep. lot old stirrups | 2 | 00 |
| | | " 3 snatch-blocks | 25 | 00 |
| | | " 3 ⅝ bolts | 1 | 20 |
| | | " 1 top rudder-iron | 4 | 00 |
| | | " 2 rudder connecting bolts | 6 | 00 |
| | | " draxages | 1 | 00 |
| | | " remaking swivel-eyes to 2 blocks | 10 | 00 |
| | | | $157 | 85 |
| June | 2d | By cash | 57 | 80 |
| | | | $100 | 00 |

(Duplicate.)

NEW ORLEANS, *Dec.* 7, 1870.

*Steamer Lotawana bought of Crescent City Ice Co.*

| | | | |
|---|---|---|---|
| Dec. | 17th | To 2,000 ice, @ 1½ | $30 00 |

45

NEW ORLEANS, *Dec. 29th*, 1870.

*St'b't Lotawana, to George Coats, Dr*

| | |
|---|---|
| To opening & repairing safe-door | $20 00 |

(Duplicate.)

NEW ORLEANS, *January 11th*, 1871.

*St'm'r Lotawana bought of J. B. Pigniola.*

| | | | |
|---|---|---|---|
| Dec. | 17th. | Bill rendered | $8 50 |

NEW ORLEANS, *Dec. 19th*, 1870.

*St'm'r Lotawana to England, Fallon & Co., Dr.*

| | | | |
|---|---|---|---|
| Dec. | 4th. | 1 snaper | 2 00 |
| | | 4 bunch pan feet | 2 00 |
| | 16th. | 2 doz. crabs | 1 00 |
| | 17th. | 10 large drum fish | 20 00 |
| June | 4th. | Bill annexed | 15 50 |
| | | Total | $40 50 |

NEW ORLEANS, *Jan. 4th*, 1871.

*St'm'r Lotawana to England, Fallon & Co., Dr.*

| | |
|---|---|
| 10 bunches pan fish | 5 00 |
| 6 red fish | 10 50 |
| | $15 50 |

*Steamer Lotawana to Brady & Palmer, Dr.*

| | | | |
|---|---|---|---|
| April | 29th. | 3 wheel arms, 3 × 6½ × 8—10 feet—60 feet—7 c. | 4 20 |
| 46 | Sept. 10th. | One lot laths | 75 |
| | Nov. 29th. | 15 ps. poplar p'k, 2 × 14 inches, 642 feet, 54c. | 32 10 |
| | | Cartage | 1 00 |
| | | | $38 05 |

*Interventions of Moran Noble & Woods.—Filed January 14th*, 1871.

J. D. COX ET AL.
*vs.*
ST'M'R LOTAWANA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Moran, Noble & Woods, a commercial firm composed of William Moran, C. H. Noble, and J. B. Woods, residing and doing business in the city of New Orleans, against the steamer Lotawana, whereof L. Q. C. Puckett, late was master, now under seizure in the above cause; and against all persons intervening for their interest therein, in a cause of contract, civil and maritime, alleges as follows:

I. That the steamboat Lotawana, whereof L. Q. C. Puckett,
47 late was master, being in the months of July and December,

1870, in the port of New Orleans, and designed on voyages up Red River, engaged in commerce and navigation, the master of said boat applied to and purchased from libellants various quantities of stores for the use of said boat, passengers, and crew, amounting in all to the sum of $1,483.01, on which said boat has paid on account, at various times, sums of money, amounting in all to the sum of $800, leaving a balance still due libellants of six hundred and eighty-four $\frac{01}{100}$ dollars, ($684.01;) all of which will more fully appear by reference to the detail bill annexed and made part hereof.

II. That, at the time said stores were sold and delivered to said boat, she was engaged in commerce and navigation between the ports of New Orleans and various ports and places on Red River.

III. The stores sold and delivered by libellants to said boat were absolutely and indispensably necessary to enable her to prosecute her said voyages, and could not have been procured on the credit of her owners, and libellants sold them on the credit of the boat.

48 IV. That said steamer Lotawanna is now under seizure, and about to be sold by virtue of admiralty process issued from this honorable court in the above cause.

V. That all and singular the premises are true and within the admiralty and maritime jurisdiction of this honorable court.

Wherefore libellants pray that this libel of intervention be filed, and that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawana, or her proceeds, and that all persons claiming any interest in said boat, or her proceeds, be cited to appear and answer the matters aforesaid; and, after due proceedings had, that this honorable court will be pleased to decree the payment of their aforesaid claim, with privilege and preference, out of said proceeds, and costs of suit; and libellants pray for general relief.

(Signed) BENTWICK EGAN,
*Proctor.*

P. H. Noble, being sworn, says that he is a member of the firm of Moran, Noble & Woods, libellants in the above cause, and that
49 all the facts and allegation in the foregoing libel of intervention are true and correct.

(Signed) ROWLAND H. NOBLE.

Sworn to and subscribed before me this 14th January, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

(Endorsed:) Service accepted January 14th, 1871.

(Signed) R. DE GRAY.

*Document annexed to intervention of Moran, Noble & Woods.—Filed January 14th, 1871.*

*Steamer Lotawana in ac. with Moran, Noble & Woods.*

| 1870. | | | | | |
|---|---|---|---|---|---|
| July | 22d. | To m'd'se, stores | | | 38 93 |
| Dec. | 3d. | " " | Nov. 28, " | | 947 91 |
| " | 19. | " " | additional | | 492 17 |
| " | " | " " | " | | 4 00 |
| | | | | | $1,483 01 |

CR.

| | | | |
|---|---|---|---|
| Dec. 17th. | By cash ac | 422 | 15 |
| 19. | " " fre't bills | 61 | 85 |
| 20. | " " proceeds draft | 150 | |
| 28. | " " rec'd from st'r Bertha | 166 | |
| 31. | Balance due us | 683 | 01 |
| | | $1,483 | 01 |

| | | | |
|---|---|---|---|
| | Dec. 31. To balance due us | 683 | 01 |
| 50 | 1871. | | |
| | Jan. 3d. To dray, on rope ret., omitted above | 1 | 00 |
| | | $684 | 01 |

New Orleans, Jan. 3d, 1871.

MORAN, NOBLE & WOODS.
P'r PRATT.

This is to certify that the above account correct.
FRED. V. CELLOS.

*Intervention of Boyd, Wilmot & Co.—Filed January 14th*, 1871.

In admiralty.

To the judge of the district court of the United States for the district of Louisiana.

S. M. Boyd, W. G. Wilmot and Thomas Faucett, who compose the commercial firm of Boyd, Wilmot & Co., which said firm is domiciled in the city of New Orleans, exhibit this, their libel, against the steamboat Lotawana, whereof now is, or lately was, master, now being in the custody of the marshal of the district aforesaid, under arrest, in virtue of a warrant issued out of this honorable court at the suit of

in a cause of substraction of wages, civil and maritime, her
51 boats, tackle, apparel, and furniture, and against all other persons lawfully intervening for their interest therein, in a cause of contract, civil and maritime; and therefore the said Boyd, Wilmot & Co. do allege and articulately propounds as follows, to wit:

First. That the said Lotawanna was, at the time the said supplies hereinbefore mentioned were furnished, a foreign vessel, owned by some person or persons unknown to libellants, and not residing in the State of Louisiana, in which said State said supplies were furnished.

Second. That on the 4th day of June, 1870, the said steamboat then lying at the port of New Orleans, in the State of Louisiana, the said master of said steamboat represented to the libellants that the said steamboat Lotawana, stood in need of the supplies hereinafter mentioned, in order to render her seaworthy and competent to proceed on her intended voyage or trip, and requested the libellants to furnish supplies, and that libellants in pursuance of said representation and request, on the day and at the place last above named, undertook
52 to supply, and did supply and furnish, the said steamboat Lota-

wanna with three hundred boxes of coal, which supplies, with the value thereof, are more particularly stated and described in the schedule or account hereto annexed, and which amount, in the whole, to one hundred and ninety-five dollars, with interest from June 4th, 1870, until paid.

Third. That the said supplies were so furnished by the libellants on the credit of said steamboat, as well as of the owners and the master thereof, and were suitable, proper, and necessary for the purpose of enabling the said steamboat to make her trips or voyages.

Fourth. That the aforesaid sum of $195, with interest from June 4th, 1870, still remains wholly unpaid and due the libellants, although they have often requested the payment of the same.

Fifth. That all and singular the premises are true.

Wherefore the libellants pray that process of monition may issue to the marshal of the district aforesaid, commanding him to cite and admonish all persons having or pretending to have any right, title,
53 or interest in the said steamboat Lotawanna, her boats, tackle, apparel, and furniture, to appear before this honorable court on the day of , or such other day to be inserted in said monitions as the court shall direct, then and there to answer the libellant' in the premises, according to the course of courts of admiralty and the rules and practice of this honorable court in civil causes of admiralty and maritime jurisdiction; and that this honorable court will pronounce for the wages aforesaid, and decree the same to be paid with cost, and for all general relief.

(Signed) R. DEGRAY, *Proctor.*

, being sworn, deposes and says that he is a member of the firm of Boyd, Wilmot & Co., of New Orleans; and that the matter' set forth in the foregoing libel are true, to the best of his knowledge and belief.

Sworn to and subscribed before me this day of Jan'y, 1871.

(Endorsed:) Service accepted.
(Signed) B. EGAN,
54 *Proctor for E. D. Cox et als.*

*Document an'exed to intervention of Boyd, Wilmott & Co.*

$195.| NEW ORLEANS, *June 4th*, 1870.

Due Boyd, Wilmott & Co. one hundred and ninety-five dollars, for 300 boxes of coal, at 65c. per box.

STEAMBOAT LOTAWANNA & OWNERS.
(Signed) B. B. HOTCHKINS, *Clerk.*

*Intervention of Lagan and Mackison.—Filed January 14th*, 1871.

J. D. COX ET AL.
*vs.*
ST'M'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Lagan and Mackison, doing business in

the city of New Orleans as hardware-merchants and ship-chandlery, and composed of Mathew D. Lagan and James Mackison, against
55 the steamer Lotawanna, whereof S. Q. C. Puckett, late was master, or her proceeds, and against all persons intervening for their interest therein in a cause of contract, civil and maritime, alleges as follows:

I. That the steamboat Lotawanna, whereof S. Q. C. Puckett, late was master, was in the port of New Orleans, at various dates, in the year' 1869 & '70, and designed on various voyages up the Mississippi River and tributaries, engaged in commerce and navigation, and in need of various articles of hardware and ship-chandlery, which the master of said boat purchased from libellants, for the use of said boat, to the amount of $805.30, and paid, at various dates, on account of the same, the sum of $320.90, leaving a balance due libellants on their said bill of four hundred and eighty-four $\frac{40}{100}$ dollars, ($484.40,) all of which will more fully appear from the detail-bill annexed and made part hereof.

II. That all the hardware and ship-chandlery described in libellants' bill annexed was sold and delivered by them to said boat at the
56 dates therein mentioned; that the prices charged for the same are just and reasonable; and that the said articles were absolutely and indispensably necessary to enable said boat to prosecute her mentioned voyages, and could not have been procured on the credit of the boat, and were sold and delivered by libellants to said vessel on her credit.

III. That the steamboat Lotawanna is now under seizure and about to be sold by virtue of process issued from this honorable court in the above cause.

IV. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed; and that process, in due form of law, and according to the course of admiralty and maritime jurisdiction, may issue against the said steamboat Lotawanna or her proceeds; and that all persons interested in them may be cited to appear and answer the matter aforesaid; and, after due proceedings had, that this honorable court will be pleased to decree
57 the payment of libellants' aforesaid claim by said boat, or out of her proceeds, with costs and privilege; and libellants pray for general relief.

(Signed) BENTWICK EGAN, *Proctor.*
( " ) JAMES MACKISON.

Sworn to & subscribed before me this 14th January, 1871.
(Signed) K. LOEW, *U. S. Comm'r.*

(Endorsed:) Service accepted January 16th, 1871.
(Signed) R. DE GRAY.

*Document annexed to intervention of Lagan & Mackison.*

NEW ORLEANS, *Dec. 31st*, 1870.

*St'r Lotawanna bought of Lagan & Mackison.*

| | | |
|---|---|---|
| 1869. | | |
| June 29. | 3 man-head gaskets, 12 lbs., *a* 20c., $2.40; 4 lbs. spikes, *a* 11c., $4.40. | 6 80 |
| July 14th. | 35 lbs. boat-spikes, *a* 11⅛, $3.85; 6 bolts, *a* 15, 90 | 4 75 |
| | 12 lbs. oakum, *a* 11, 1.32; 16 lbs. ⅝ iron at 6½, 1.04 | 2 36 |
| Aug. | 27. 2 bolts 4 × ⅝ *a* 17½, 35; 1 lb. emery 2*s* | 60 |

| | | | |
|---|---|---|---|
| 58 | 30. | 22 lbs. sheet-lead *a* 16, $3.52; 1⅜ lbs. cloth-gum, *a* 1.20, $2.10 | 5 62 |
| | | 68 packing yarn, *a* 2*s*., $17.00; 2 iron sheaves, $1.75 | 18 75 |
| | | 1 lb. emery 2*s*.; 32 lbs. ¼-in. chain, *a* 16c. 5.12; dray, 4*s* | 5 87 |
| | 31. | 1½ stern packing, *a* 80c., 1.20; 3 lbs. sheet-gum, *a* 85c., 2.55 | 3 75 |
| Sept. | 1. | 16 bolts, at 10½c., $1.68; ⅜ lbs. washers, *a* 20c., 15c.; 5 lbs. washer, *a* 20c., $1.00 | 2 83 |
| | 2. | 12 bolts, *a* 6¾c., 81c.; 1½ lb. white marlin, *a* 60c | 1 56 |
| | | 1⅛ lbs. white marlin, *a* 60c., $1.05; 4½ lbs. tallow, *a* 15c., 68 | 1 73 |
| | | 3¾ lbs. bees-wax, *a* 60c., 1.95; 1 lb. black-lead, 30 | 2 25 |
| | 24. | 90 lbs. stirrups, *a* 15c., $13.50; 24 bolts, *a* 9c., 2.16; dray 4*s* | 16 16 |
| Oct. | 30. | 1 monkey-wrench | 3 00 |
| Nov. | 1. | 6⅜ lbs. tallow, *a* 15c., $1.00; 5¼ lbs. oct. steel, *a* 28c., 1.47 | 2 48 |
| | | 2 lbs. emery, *a* 2*s*., 50c.; 5 lbs. bees-wax, *a* 60c., $3.00 | 3 50 |
| | | 2 lbs. lubrigating packing, *a* 90c., 1.80; 1 lb. cotton rope, 80 | 2 60 |
| | | 15 lbs. hemp packing, *a* 2*s* | 3 75 |
| Nov. | 22. | 6 lbs. jarred rope, *a* 2*s*., 1.50; 2½ clout-nails, *a* 2*s*., 60c | 2 13 |
| | 23. | 68 lbs. flat iron, *a* 5½ | 3 74 |
| | 24. | 30 lbs. nails, *a* 8c., $2.00; cloth-gum, 45c.; 1 y'd wire gauze, $2.00 | 4 85 |
| 59 | " | 1 lb. ⅜ washers, 20c.; 52 lbs. ½ in. r'd iron, *a* 6½, $3.38 | 3 58 |
| | 25. | 15½ lbs. sheet-gum, *a* 85, $11.48; ¼ lb. copper wire, 20c.; 9 lbs. sheet-lead, *a* 16c., 1.44 | 13 12 |
| | 26. | 2 lbs. wro't spikes, *a* 90c., $1.80; grass line, 30c., $1.14; 1 bolt $1.25 | 3 35 |
| | 37. | 12 bolts 2⅜ & ⅝, *a* 8½, $1.02; 1¼ lbs. wro't-nails, *a* 2*s*., 44 | 1 46 |
| | | 1½ lbs. white marlin, *a* 60c., 75c.; 2 yards canvass, *a* 40c., 80 | 1 55 |
| | | 1¼ lbs. cotton rope, *a* 80c., $1.00; 2¼ lbs. lubrigating packing, at 90c., 2.03 | 3 03 |
| | | 1 oil can | 50 |
| | 30. | 1 lb. lamp-wick, 90c.; 1 quire emery paper, 6*s* | 1 65 |
| | | 1 doz. lamp-wicks, 35; 4 lamp chimneys, 2*s*., 1.00 | 1 35 |
| Dec. | 6. | 60 lbs. nails, *a* 8c., 4.80; 50 lbs. oakum, *a* 11c., $5.50; dray, 4*s* | 10 80 |
| | 22. | 1 14-inch file, $1.50; 1 12-inch file, $1.40; 1 set-hammer, $2.00 | 5 00 |
| | | 1 eng. hammer, $2.00; 2 lbs. emery, *a* 2*s*, 50c | 2 50 |
| | 23. | 6 lbs. lead gaskets, *a* 30c | 1 20 |
| | 24. | bolts nails, *a* 8¼, $4.80; 2½ lbs. bolts, *a* 1*s*., 31; 5 lbs. tallow, *a* 15c., 6*s*. | 5 86 |
| 60 | | 30 lbs. packing gum, *a* 2*s*., $7.50; 1 splitting chisel, $2.25 | 9 75 |
| | | 20 lbs. spikes, *a* 9c., $1.80; 5 lbs. bolts, *a* 1*s*., 63 | 2 43 |
| | 35. | 15 lbs. spikes, *a* 9c | 1 35 |
| | 27. | 1 tin oil can 4*s*.; 1 lock, $1.25; 6 lbs. sheet-iron, *a* 10c, 60c | 2 35 |
| 1870. | | | |
| Jan'y | 17. | 1 lb. emery, 2*s*.; 9¼ lbs. circle bolts, *a* 1*s*., $1.19 | 1 44 |
| | | 2 circles wrenches, *a* $1.25; 2 wheel wrenches, *a* $1.50, 3.50 | 5 50 |
| | | 150 lbs. spikes, *a* 8c., $12.00; drayage, 4*s* | 12 50 |
| | | 27 lbs. circle bolts, *a* 1*s*., $3.38; 20 lbs. spikes, *a* 9c, $1.80; 1 lb. emery 2*s* | 5 43 |
| | | 4 lbs. oct. steel, *a* 26c., $1.04; 1 eng. splitting chisel, $2.00 | 3 04 |
| | | 3½ lbs. bolts, *a* 1*s*., 44c.; 12 lbs. lead gasquet, *a* 20c., $2.80 | 2 84 |
| | | 15 lbs. bolts, *a* 1*s*., $1.88 2½ lbs. lubrigating packing, *a* 90c., $2.25 | 4 13 |
| | | 2 lbs. cotton rope, *a* 80c | 1 60 |
| | 18. | 64 lbs. circle bolts, *a* 1*s*., $8.00; 1 circle wrench, 6*s* | 8 75 |
| | | 1 lb. black lead, 30c.; 4 boxes lye, *a* 2*s*., $1.00 | 1 30 |
| | | 1 tin squirt can, 4*s*.; 3½ lbs. harness leather, *a* 6*s*., $2.63 | 3 13 |
| Feb'y | 2. | 12 bolts, *a* 1*s*., $1.50; 20 lbs. round iron, *a* 6½, $1.30 | 2 80 |
| | | 5 lbs. lead gasket, *a* 20c., $1.00 | 3 80 |
| 61 | 3. | 25 lbs. spikes, *a* 9c., 3.25; 5 lbs. nails, *a* 8c., 40; 1 splitting-chisel, $3.00 | 4 65 |
| | | 5 lbs. tallow, *a* 15c., 75c.; 5 lbs. beeswax, *a* 60c., $3.00; 1 lb. emery, 2*s*. | 4 00 |
| | | 9 lbs. bolts, *a* 1*s* | 1 13 |
| | 21. | 1 lb. emery | 25 |
| | 22. | 50 lbs. nails, *a* 8c., $4.00; 2 p'r loose butts, *a* 2*s*., 50c | 4 50 |
| | | 2 p'r strap-hinges & screws, *a* 2*s* | 50 |
| | | 4½ bolts, *a* 1*s*., 56; 1½ lbs. washers, *a* 20c., 30c | 86 |
| | | 25 lbs. white lead, *a* 10c., $2.50; 1 q't boiled oil, 38c | 2 88 |
| | | 15 lbs. round iron, *a* 6½ | 98 |
| | 23. | 7 feet ¼-inch pipe, *a* 15c., $1.05; 1 ¼-in. Union, 6*s* | 1 80 |
| | | 6¼-inch reducing coupling, 4*s*., in nipl'e, 2*s* | 75 |
| | | Labor, $2.50; 2 lbs. copper wire, *a* 6*s*., $1.50 | 4 00 |
| | | 2 lbs. lamp-wick, *a* 90c., $1.80; 1 lb. emery, 2*s* | 2 05 |
| | | 2½ lbs. soap-stone packing, *a* 90c., $2.25; 1 monkey-wrench, $1.50 | 3 75 |
| | | 2 y'ds canvass, *a* 40c., 80c.; 10 lbs. bolts, *a* 1*s*., $1.25 | 5 05 |
| | | 1 gall. boiled oil, $1.50; 15 lbs. round iron, *a* 6½, 98c | 2 48 |

| | | | |
|---|---|---|---|
| | | 25 lbs. white lead, *a* 10c., $2.50; 1 q't boiled oil, 38c | 2 88 |
| | 62 | 52 lbs. round iron, *a* 6¼c., $3.38; 2 top-pump boxes, *a* $2.00, 4.50 | 7 38 |
| | | 4 lbs. nails, *a* 8c., 32c.; 26 lbs. iron, round, *a* 6½, $1.69 | 2 01 |
| | | 7 lbs. tallow, *a* 15c, $1.05; 3 bolts, *a* 8⅝, 26c.; 3 bolts, *a* 9, 27 | 1 58 |
| | March 12. | 2 boxes lye, *a* 2*s*., 50c.; 1 lb. emery, 2*s*.; 4½ lbs. oct. steel, *a* 26c., $1.17 | 1 92 |
| | | 1 14-inch 2nd-cut flat bastard file | 1 75 |
| | 14. | 14 lbs. nails, *a* 8c., 1.20; 12 lbs. oakum, *a* 11, $1.32 | 2 52 |
| | | 1 sheet gasket paper, $2.00; 3 gauge-cocks, *a* $3.00, $9.00 | 11 00 |
| | | 1 steam-brush, 2*s*.; 2 copper flanges fix. and wit'g to old pipes | 10 25 |
| | | 1 brass nipple, $2.00; 1 cap for hose, $2.00 | 4 00 |
| | 15. | 25 lbs. nails, *a* 8c., $2.00; 15 lbs. bolts, *a* 1*s*., $1.88; 12 lbs. oakum, *a* 11c., $1.32 | 5 20 |
| | | 12 feet ½-inch pipe, *a* 15c., 1.80; 1 elbow, 20; 1 Union, 95c | 2 95 |
| | | 1½ days M. & H. on board boat, *a* $7.50 | 9 38 |
| | | 35 lbs. hemp-packing, *a* 2*s*., $8.75; 1½ lbs. cotton-rope, *a* 80c., 1.20 | 9 95 |
| | | 1½ lbs. soap-stone packing, *a* 90c., $1.50; 15 lbs. spikes, *a* 9c., $1.35 | 2 93 |
| 63 | 16. | 1 padlock, $1.75; stone packing, *a* 90c., $1.50; 15 lbs. spike, *a* 9c. | 2 53 |
| | | 1½ lbs. bolt-rope, *a* 30c., 45c.; 4 lbs. white marlin, *a* 60c., $2.40 | 2 85 |
| | | Repairing 2 oil-cans, 4*s*.; 8 lbs. oakum, *a* 11c., 88c | 1 38 |
| | | 1 peice sheet iron, *a* 4*s*.; 1 copper nozzle, $2.00 | 2 50 |
| | | ½ day M. & H. on board, *a* $7.50 | 3 75 |
| | | 2 R. R. hand-lanterns, *a* 2.00 | 4 00 |
| | April 4. | 2 boxes of lye, *a* 2*s*., 50c.; 1 circle-wrench, 6*s* | 1 25 |
| | 5. | 10 lbs. boat-spikes, *a* 9c | 90 |
| | 6. | 70 lbs. boat-spikes, *a* 9c., $6.30; 10 lbs. nails, *a* 8c., 80c | 7 00 |
| | 7. | 10 lbs. nails, *a* 8c | 80 |
| | 9. | 1¼-inch Union, 6*s*.; 1¼ nipple, 2*s* | 1 00 |
| | 11. | 5 lbs. washers, *a* 20c., $1.20; 26½ spikes, *a* 9c., $2.39 | 3 39 |
| | 12. | 3¾ lbs. sheet-copper, *a* 50c., $1.86; ½ lb. clout-nails, *a* 20c., 10 | 1 98 |
| | 14. | 1 wheel-wrench, $1.00; 13 lbs. bolts, *a* 1*s*., $1.75 | 2 75 |
| | | 2 lbs. emery, *a* 2*s*., 50c.; 1 lb. black lead, 30c | 80 |
| | | 5 lbs. tallow, *a* 15c., 75c.; 1½ lbs. soap-stone packing, *a* 90c., $1.35 | 2 10 |
| | | 1 lb. wro't nails, 2*s*.; 1 coal shovel, $2.25; 6 bolts, *a* 7c., 42c | 2 92 |
| | | 7 lbs. bolts, *a* 1*s*., 88c.; 1 Eng. hammer, $2.50; 50 lbs. flat-iron, *a* 6c. $1.20 | 4 58 |
| 64 | | 20 lbs. boat spikes, *a* 9c | 1 80 |
| | 29. | 1 lantern-globe, 6*s*.; 6 R. R. lantern-globes, *a* 50c., $3.00 | 3 75 |
| | | 1 10-inch monkey-wrench, $1.50; 8 lbs. beeswax, *a* 60c., $4.80 | 6 30 |
| | 29. | 4½ pumps leather, *a* 6*s*., $3.38; 1 lb. sheet-gum 85c | 4 23 |
| | | 2 lbs. cotton-rope, *a* 80c., $1.60; 7½ lbs. sheet-lead, *a* 16c., $1.20 | 2 80 |
| | | Repairing lamp, $1.25; 5 lbs. lead gasket, *a* 20c., $1.50 | 2 25 |
| | | To f't loose, *a* 60c | 30 |
| | | 1 p'r 2½-in. hose couplings | 2 75 |
| | | 2 1½-hose bands, *a* 60 | 1 20 |
| | | 16 lbs. nails, *a* 8c | 1 28 |
| | 30. | 2 doz. painted buckets, *a* 4.00 | 8 00 |
| | | 10 gall. head-light oil, *a* 6*s* | 7 50 |
| | | 65 lbs. round iron, *a* 6c | 3 90 |
| | June 1st. | 1 ¾ T, 2*s*.; 2 ¾ bushings, *a* 16c., 32c | 57 |
| | | 1 blower-nozzle, 6*s*.; ½ day M. & H., *a* $7.50, $3.75 | 4 50 |
| | 2. | 1 16-in. file, $1.50; 1 lb. emery, 25c | 1 75 |
| | 3. | 15 bolts, *a* 8½c., $1.28; 1 lb. washers, 20c | 1 48 |
| | | 1½ lbs. Eagle packing, *a* 4*s*., 75c.; 1½ lbs. sq. gum, *a* $1.00, $1.25 | 2 00 |
| | | 42 lbs. hemp packing, *a* 2*s*., $10.50; 1 lb. cotton rope, 80c | 11 30 |
| | 4. | 2½ lbs. ste'm-packing, *a* 6*s*., $1.69; ½ lb. cotton rope, 40c | 2 09 |
| 65 | | 6 bolts, *a* 8⅝c., 53; ½ lb. washers, *a* 20c., 10c | 63 |
| | | 6 lbs. tallow, *a* 16c., 96c.; 1 lb. copper tacks, 6*s* | 1 71 |
| | | 4 lamp chimneys, *a* 20c., 80c.; 1 coal-oil burner, 4*s* | 1 30 |
| | 7. | 1 lamp glass, 60c.; 4 boxes lye, *a* 2*s*., $1.00 | 1 60 |
| | | 1 quire emery paper, 6*s*.; 1 lb. emery, 2*s*.; 1 shovel, $2 25 | 3 25 |
| | 1869. | | |
| | Nov. 24. | 116 lbs. sheet-iron for fire-bed, *a* 9c | 10 44 |
| | | 1 day M. & H. on board | 7 50 |
| | 26. | 4 sheet-iron chock linings, *a* $1 25 | 5 00 |
| | | | $513 16 |

CR.

| | | | | |
|---|---|---|---|---|
| July | 14. | Cr. by cash | 14 42 | |
| Oct. | 15. | " " " | 70 20 | |
| Dec. | 24. | " " " | 60 72 | |
| 1870. | | | | |
| March | 15. | " " " | 100 00 | |
| May | 10. | " " " | 75 56 | |
| | | | | $320 90 |
| | | | | $192 26 |

NEW ORLEANS, *January 5th*, 1871.

*St'r Lotawanna bought of Lagan & Makison.*

| | | | | |
|---|---|---|---|---|
| 1870. | | | | |
| Nov. | 10. | 2 galls. boiled oil, *a* 1.40, $2 80; 1 gall. turp., 60c | | 3 40 |
| | | 50 lbs. white lead, *a* 15c., $7 50; 1 sash-tool, 2*s* | | 7 75 |
| | | 1 paint brush, $2.00; 2 lbs. Venitian red, *a* 20c., 40 | | 2 40 |
| 66 | 12. | 1 screw-wrench, $2.75; $3.15; 8 lbs. sheet lead, *a* 15c., $1.20 | | 4 35 |
| | | 1 compass, $2.50; 1 callipers, 6*s* | | 2 75 |
| | 15. | 1 sledge handle, 40c., 1 quire emery paper, 6*s* | | 1 15 |
| | | 6 bolts, 30c.; 1 lb. emery, 2*s* | | 55 |
| | 16. | 1 splitting-chisel | | 1 75 |
| | 18. | 3 lbs. square gum, *a* 90c | | 2 70 |
| | 21. | 8 lbs. nails, *a* 8c | | 64 |
| | 24. | 1 p'r strap-hinges | | 20 |
| | 25. | 1 doz. p'r butts, $1.50; 1 gross screws, 6*s* | | 2 25 |
| | | 1 p'r strap-hinges & screws | | 35 |
| | | 1 hasp and staple, 2*s*.; 2 padlcoks, 30c., 60c | | 85 |
| | | 3 axe-handres, *a* 40c., 1.20; 1 gasket-board, $2.00 | | 3 20 |
| | | 5 lbs. ste'm packing, *a* 6*s*., 3.75; 1 paper lampblack, 10c | | 3 85 |
| | 26. | 8 lbs. sheet gum, *a* 6*s*., $6.00; 1 14-in. flat bast'd file, $1.50 | | 7 50 |
| | | 1 12-in. round file | | 1 00 |
| | 28. | 1 p'r hose-couplings, $2.50; 3 hose-bands, *a* 50c., $1.50 | | 4 00 |
| | | 10 lbs. nails, *a* 8c., 80c.; chalk, 10c | | 90 |
| | 29. | 50 lbs. white lead, *a* 11c., $5.50; 22 lbs. packing-yarn, *a* 2*s*., 5.50 | | 11 00 |
| | | 2 quires emery paper, *a* 6*s*., $1.50; 5 lbs. green paint, *a* 35c., $1.75 | | 3 25 |
| | | 1 gall. turpentine, 60c.; 1 gall. boiled oil, $1.40 | | 2 00 |
| 67 | | 1 gall. black varnish, $1.50; 6 yards canvass, *a* 35c., $2.60 | | 3 60 |
| | | 2 papers tacks, *a* 10c.; 20c.; 2 sail-needles, *a* 5c., 10c | | 30 |
| | | 1 palm, 4*s*.; 1 hank twine, 30 | | 80 |
| | | Two papers lampblack, *a* 20 | | 40 |
| | | Patching life-boat | | 6 |
| | | 570 lbs. Manilla rope, *a* 22c | | 125 40 |
| | | 2 lbs. lamp-wick, *a* 80c., 1.60; dray, 40c | | 2 00 |
| Dec. | 14. | 2 boxes lye, *a* 2*s* | | 50 |
| | 15. | 40 lbs. boat-spikes, *a* 9c., $3.60; 1 bar ⅝-iron, 85 | | 4 45 |
| | | ½ dozen rim-lock catches, *a* 1.50 | | 75 |
| | | 1 paper finishing nails | | 25 |
| | | 2 knobs for locks, *a* 6*s* | | 1 50 |
| | 16. | 2 lbs. tarred rope, *a* 30c., 60c.; 18 lbs. oakum, *a* 1*s*., 2.25 | | 2 85 |
| | | 12½ lbs. bolts, *a* 1*s*., $1.56; 1½ lbs. washers, *a* 20c., 30c.; 2 lbs. emery, *a* 2*s*., 50c | | 2 36 |
| | | 1 shingling-hatchet, $1.25; drayage, 40c | | 1 65 |
| | | 1 bilge-pump, with box, valve, and spear | | 7 00 |
| | 17. | 1 lb. sheet-gum, 80 c.; 3½ lbs. tallow, *a* 15c., 53c | | 1 33 |
| | | 3 lbs. bees-wax, *a* 60c., $1.80; 1 squirt-can. 4*s* | | 2 30 |
| | | 1 oil-feeder, 4*s*.; 15 galls. lard oil, *a* $1.50, $22.50 | | 23 00 |
| | | 52 lbs. round iron, *a* 5½c., $2.86; 1 hammer, 1.75 | | 4 61 |
| 68 | | 1 hammer, $2.25; 1 monkey-wrench, $1.25 | | 3 50 |
| | 27. | 2 boxes lye, *a* 2*s* | | 50 |
| | 28. | 6 lbs. harness leather, *a* 65c | | 3 90 |
| | | 51 lbs. packing-yarn, *a* 2*s* | | 12 75 |
| | | 1 14-in. ½-round file | | 1 75 |
| | | 1 paper copper tacks | | 90 |
| | | | $292 14 | |
| | | Amount of old bill | 192 26 | |
| | | | | $484 40 |

*Intervention of F. V. Cellos.—Filed January 16th, 1871.*

To the honorable E. H. Durell, judge of the district court for the district of Louisiana:

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

The libel of intervention of Ferdinand V. Cellos, late clerk on the steamboat Lotawanna, whereof L. Q. C. Puckett late was master, against said boat or her proceeds, in a cause of subtraction of wages, civil and maritime, alleges as follows:

I. That the steamboat Lotawanna, whereof L. Q. C. Puckett late was master, being in the port of New Orleans on the 27th of November,
69 1870, and bound on a voyage up Red River, engaged in commerce and navigation, the master of said boat shipped and hired libellant, on said day, to serve on board said boat as first clerk, at the monthly wages of $300 per month.

II. That libellant entered on board said boat in the aforesaid capacity of first clerk and continued to serve on board of her as such (making various voyages) from the 27th of November, 1870, to the 7th of January, 1871, inclusive, making 42 days, by reasons of which he became entitled to $420, on which sum he has received on account the sum of $336.13, leaving a balance due him of eighty-three $\frac{87}{100}$ dollars for his wages on said boat, all of which will more fully appear from the detail-bill annexed and made part hereof.

III. That, during the time libellant served on said boat as aforesaid, he well and truly performed the services for which he had shipped and was obedient to the commands of the master and officers of said boat.

70 IV. That said steamboat Lotawanna is now under seizure and about to be sold by virtue of admiralty process issued in the above cause.

V. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States, and of this honorable court.

Wherefore libellant prays that this libel of intervention be filed, and that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against st'm'r Lotawanna or her proceeds, and that all persons claiming an interest in the same may be cited to appear and answer the matter aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's said claim out of them, with privilege and all costs of suit; and libellant prays for general relief.

(Signed) BENTWICK EAGAN, *Proctor.*
( " ) FERDINAND V. CELLOS.

71 Sworn to and subscribed before me this 16th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Document annexed to intervention of Fer'd V. Cellos.*

NEW ORLEANS, *January 7th*, 1871.

*St'm'r Lotawanna, to Fer'd V. Cellos, Dr.*

| | | |
|---|---|---|
| 1871. | | |
| January 7th. | To services ren'd as clerk, from Nov. 27th to January 7th, inclusive, say 42 days, @ $300 per month | $420 00 |

CR.

| | | |
|---|---|---|
| 1871. | | |
| Jan. | By cash on ac | 336 13 |
| | | $83 87 |

E. & O. E.

*Intervention of L. Q. C. Puckett.—Filed January 16th*, 1871.

J. D. COX & AL.
*vs.*
ST'R LOTAWANNA, HER TACKLE, &C.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of L. Q. C. Puckett, late master of the
72 steamboat Lotawanna, against said boat or her proceeds, now under seizure and about to be sold by virtue of admiralty process issued from this honorable court in the above cause, and against all persons claiming any interest in the same, in a cause of substraction of wages, civil and maritime, alleges as follows:

I. That, on the 25th of November, libellant was shipped and hired to serve as master of the steamboat Lotawanna, then about to engage in commerce & navigation between the ports of New Orleans and various ports and places on Red River, at the monthly wages of six hundred dollars per month.

II. That libellant went on board and took command of said boat on the said 25th of November, 1870, and made two trips or voyages to Shreveport and back to New Orleans, remaining on board said boat and performing his duties as master as aforesaid until the 29th of December, following, when said boat was seized and is now about to be sold
73 by virtue of admiralty process issued from this honorable court in the above cause.

III. That the wages earned by libellant as master of said steamer for the time he served on board, being 35 days, amount to the sum of seven hundred dollars, on which he has received on account, at various times, the amount of three hundred and twenty one $\frac{05}{100}$ dollars, leaving the amount now due to libellant in his said wages *amount to* the sum of three hundred and seventy-eight $\frac{95}{100}$ dollars, ($378.95,) all of which will more fully appear by reference to his bill annexed and made part hereof.

IV. That all and singular the premises are true and within the admi-

ralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants prays that this libel of intervention be filed, and that process in due form of law do issue against said boat, or her proceeds, and that, after due proceedings had, this honorable court will be pleased to decree in favor of libellant for the amount due him for
74 wages as aforesaid, payable out of the proceeds of the sale of said boat, with costs; and libellant prays for such other and further relief and remedy as the nature of his case may require and this court is competent to give.

(Signed) BENTWICK EGAN, *Proctor.*

( " ) L. Q. C. PUCKETT.

Sworn to & subscribed before me this 16th January, 1871.

(Signed) K. LOEW, *U. S. Comm'r.*

(Endorsed:) Let this intervention be filed.

(Signed) E. H. DURELL, *Judge.*

January 16th, 1871.

*Document annexed to intervention of L. Q. C. Puckett.*

NEW ORLEANS, *Dec. 29th*, 1870.

*Steamer Lotawana in ac. with L. Q. C. Puckett.*

1870.

Dec. 29th. For wages from Nov. 25th to Dec. 29th, 1870, for services rendered as captain, @ $600 per month, say 35 days..... $700 00

CR.

| | | | |
|---|---|---|---|
| Dec. 13th. | By cash on a/c..... | $155 05 | |
| 75 29. | By cash on a/c..... | $166 00 | |
| | Bal. due Capt. Puckett..... | 378 95 | |
| | | | $700 00 |

Dec. 29th. Bal. due Capt. Puckette..... $378 95

I certify the above acc't correct, and true copy of Capt. Puckette' acc't.

(Signed) FER'D V. CELLOS, *Clerk.*

*Intervention of Ruth & Larkin.—Filed January 18th*, 1871.

In admiralty.

To the judge of the district court of the United States for the district of Louisiana:

John Ruth and Frank Larkin, who compose the firm of Ruth and Larkin, of the city of New Orleans, exhibit this their libel against the steamboat Lotawanna, now being in the custody of the marshal of the district aforesaid, under arrest in virtue of a warrant issued out of this honorable court, at the suit of in a cause

| | | | |
|---|---|---|---|
| | | 4 ⅞ stiffener stirrups with plates, 74 lbs., 12½ | 9 25 |
| | | 2¼-inch screw-bolts for flange-bands, six-sided heads and nuts, 1.50 | 3 00 |
| April | 9. | 1 cast-iron revel wheel, 282 lbs., 7 | 19 74 |
| | | Boring & keyseating same | 6 00 |
| | | 2 cast-iron revel pinions, 66 lbs., 7 | 4 62 |
| | | Boring & keyseating same, 5.00 | 10 00 |
| 82 | | 2 set pitman brasses with rabbit, 63, 50 | 31 30 |
| | | Bracing & fitting up same, 6.00 | 12 00 |
| | | Pattern for same | 3 00 |
| | | Drayage | 50 |
| | 14. | 750 flange-swedges, 15 | 11 25 |
| | | 6 cast-iron fire-proof linnings, 600 lbs., 5½ | 33 00 |
| | | Fitting new metal'ic and 1 brass packing ring, and turning off 2 rings | 12 00 |
| | | 4 inches stiffener stirrups with clips, 113 lbs., 15 | 16 95 |
| | | Piercing out 1-inch T-head bolt with new thread and nut | 75 |
| | | Forward | $363 69 |
| | | Forward | 363 69 |
| June | 4. | Drayages | 1 00 |
| July | 23. | 2 brass check-valves, 16 lbs., 50 | 8 00 |
| | | Turning and finishing same, 2.50 | 5 00 |
| | | " off 2 old valves, 1.50 | 3 00 |
| | | 1 wro't double crank welded to part off old shaft | 80 |
| | | 1 new steel end with strap and braces fitted up and welded to old connecting rod for nigger | 22 00 |
| | | Fitting new follower, new stud bolts, 1 set screws for nigger | 12 00 |
| | | 1 copper ring for same | 2 75 |
| | | 1 cast-iron revel wheel and pinion, 130 lbs., 7 | 9 10 |
| | | Boring and cutting keyseats in same | 12 00 |
| 83 | | 2 brass packing rings with metal'ic, 99, 50 | 49 50 |
| | | Turning and finishing same, 12 | 24 00 |
| | | Facing one cistern-head and follower | 15 00 |
| | | Fitting and packing, & grinding follower to piston | 15 00 |
| | | Cutting keyways in rings, and cutting pump | 2 50 |
| | | 2 cast-iron back bearing bars, 265 lbs., 7c | 18 55 |
| | | Pattern for same | 3 00 |
| | | 8 cast-iron sheeves, 1.16 | 8 12 |
| | | Boring same, 1.25 | 10 00 |
| | | 4 wro't beam stirrups, 46, 20 | 9 20 |
| | | 4 ⅞ bolts for same, 75 | 3 00 |
| | | 1 wro't stirrup for cross-piece for cylinder timber, 40 lbs., 20 | 8 00 |
| | | 4 ⅞ cavel stirrups with cross-pieces, 54 lbs, 20 | 10 80 |
| | | 3 cast-iron washers, 9 lbs., 7 | 63 |
| | | 2 wro't straps for rudder, 2.50 | 5 00 |
| | | Cutting and welding 16 pieces hog chain, 1.50 | 24 00 |
| | | 2 peices 1½-inch guard-chain, 48 lbs., 15c | 7 20 |
| | | 2 ⅝×7 bolts, 50 | 1 00 |
| | | 2 fork bolts with boiler-iron washer, $4.00 | 8 00 |
| | | Drayages & ferry | 5 50 |
| 84 | Dec. 17. | 3 lead hand hole plate gasket, 5 lbs., 25c | 1 25 |
| | | Fitting new wro't arm on doctor rock-shaft | 6 00 |
| | | | $762 39 |

*Intervention of Fanny Stroop, and of Kouns and Scovel.—Filed January 19th, 1871.*

J. D. COX ET AL.
*vs.*
ST'B'T LOTAWANNA, HER TACKLE, &C. } No. 9642.

United States district court. In admiralty.

To the honorable E. H. Durell, judge of the United States district court for the State of Louisiana:

The libel of intervention of Fanny Stroop, her husband, Jno. Stroop,

and of Kouns & Scovil, a commercial firm composed of John Kouns and W. F. Scovil, who do business under the name and style of Canal Street Ferry Company, who all reside and do busines in this city, against the steamboat Lotawanna, her tackle, apparel, machinery, and furniture, and against her owners, Joseph Morgan and P. A. Work, in solido,
85 in a cause of contract, civil and maritime, and against all persons lawfully intervening for their interests therein; and therefore said intervening libellants allege and propound as follows:

1st. That said steamboat Lotawanna and her owners, Jos. Morgan and P. A. Work, are justly and truly indebted, in solido, to your libellants, viz., to Fanny Stroop, in the sum of two hundred and twenty-six $\frac{11}{100}$ with legal interest—

On $73.40, from Jan. 1870, till paid;
38.20, " Feb'y 20, " "
18.20, " March 16, " "
41.25, " April 29, " "
55.00, " Dec. 17, " "

for supplies and vegetables sold and delivered by your libellant, Fanny Stroop, to said boat, on the days and dates set forth in Exhibit A, hereunto annexed and made a part of the intervening libel; and to said Kouns & Scovel in the sum of one hundred dollars, with interest, for services rendered by said libellant's tug, Little Jerry, to said steamboat Lotawanna, on the night of November , 1870, in removing her
86 from the levee on the right bank of the river opposite the city, on the occasion of the burning of the steamboat Cornelia and Bossier, to a place of safety; but for which services the Lottawanna would have inevitably been burned and utterly destroyed by said fire, as will more fully appear from the approved bill for said services hereunto annexed, and made a part of this intervening libel.

2d. That, at the time said supply of vegetables were sold by your intervening libellant and delivered to said steamboat Lotawanna, she was engaged in carrying freight and passengers for him on the Mississippi River and tributaries.

3d. That said boat has been sold by order of this honorable court herein rendered, and the proceeds of sale are now in the hands of the register.

4th. That intervening libellants are privileged creditors of said boat, her tackle, apparel, &c., and are entitled to be paid the amount of their respective claims out of the proceeds of sale of said boat in pref-
87 erence to all other creditors.

5th. That all and singular the premises are true, and with the jurisdiction of the United States and of the hon. court.

Wherefore libellants pray that this their libel be filed, and that Jos. Morgan and , owners of said st.-boat, and all other parties interested, be cited to appear and answer the matter herein, and, after due proceedings, there be judgment in favor of Fanny Stroop against said steamboat Lotawanna and her owners, Jos. Morgan, P. A. Work, for said sum of $226.15, with interest as claimed, in favor of said Kouns and Scovel, and against said boat and owners, for the sum of one hundred dollars, with interest until paid, and with privilege on said steamboat Lotawanna, her tackle and apparel, or on the proceeds whereof, and all costs; and they pray for such other and further orders and

decrees as to justice may appertain and this honorable court is competent to give.

(Signed) JOHN KOUNS,
( " ) RANDOLPH SINGLETON & BROWNE,
*Proctors for Intervenors.*

88 Sworn to and subscribed before me this 19th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*
FANNY STROOP.

Sworn to and subscribed before me, January 24th, 1871.
(Signed) CH'S CLAIBORNE,
*U. S. Comm'r.*

*Documents attached to intervention of Fanny Stroop, and Kouns & Scovel.*

NEW ORLEANS, *Nov. 29th*, 1870.

*St'm'r Lotawanna to Canal Street Ferry Co., Dr.*

For saving st'm'r Lotawanna from the fire, on Nov. , 1870... $100 00

I hereby certify this bill is correct and just, and, in my opinion, would have burnt had it not been for the services of tug Little Jerry in towing the Lotawanna from the fire.

(Signed) JOSEPH MORGAN,
*Capt. St'r Lotawanna.*

NEW ORLEANS, *Jan'y 10th*, 1871.

*St'm'r Lotawanna bought of Mrs. Fanny Stroop.*

89 1870.

| | | |
|---|---|---|
| Jan'ry 18, am't bill rendered | ..... | $73 40 |
| Feb'y 26, " " " | ..... | 38 20 |
| March 16, " " " | ..... | 18 20 |
| April 29, " " " | ..... | 41 35 |
| Dec. 17, " " " | ..... | 55 00 |
| | | $226 15 |

*Libel of intervention of E. Conery & Son & Co.—Filed January 24th, 1871.*

J. D. COX & AL.
*vs.*
ST'M'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of E. Conery, Son & Co., a commercial firm residing and doing business in the city of New Orleans, against the steamboat Lotawanna, or her proceeds, now in the regist*er* of this honorable court, and against all persons intervening for their interest therein, in a cause of contract, civil and maritime, allege as follows:

I. That the steamer Lotawanna, whereof L. Q. C. Puckette late
90 was master, being in the port of New Orleans in October, 1870, and designed upon various voyages up the Mississippi River and tributaries, and in need of money to pay her crew, the master of said boat applied to and borrowed from your libellants the sum of seventy-five dollars, to pay the wages of her watchman for the month of September, 1870; all of which will more fully appear by reference to the due of the master of said boat, Jos. Morgan, annexed and made part hereof.

II. That said steamboat Lotawanna has been sold by virtue of an order rendered by this honorable court, and her proceeds are now in the regis*te*r of this hon. court.

III. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that this libel of intervention be filed, and that process in due form of law and according to the course of
91 this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said st'm'r Lotawanna or her proceeds, and that all persons claiming any interest in the same may be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellants' said claim with privilege, out of said proceeds, and all costs of suit, and libellants pray for general relief.

(Signed) BENTWICK EGAN,
*Proctor.*
( " ) E. CONERY, SONS & CO.

Sworn to & subscribed before me this 24th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Document attached to intervention of E. Conery, Son & Co.*

NEW ORLEANS, *Oct. 1st*, 1870.

Due Messrs. E. Conery, Son & Co., seventy-five dollars, cash advanced by them to pay the watchman on steamer Lotawanna and services rendered.
$75.00] JOSEPH MORGAN,
*Capt. St'r Lotawanna.*

92 *Testimony for Fanny Stroop, City of New Orleans, and Thomas Ford and others.—Filed January 24th*, 1871.

J. D. COX & AL. *vs.* ST'R LOTAWANNA. } No. 9642.

Testimony taken before K. Loew, United States commissioner, this 24th day of January, A. D. 1871.

Present, B. Egan, Geo. S. Lacey, city attorney; Randolph, Singleton, and Browne, represented by John P. Smith, esq., and Richard De Gray, represented by E. Hiestand, esq.

FANNY STROOP, being duly sworn for self, says:

Am a merchant in this city. The bill annexed to my intervention is correct in date and amount, and the vegetables therein mentioned were furnished to and used on board the boat. The amount of $226.15, which I claim, is all for stores furnished the Lotawanna.

Cross-examined:

93 The detail-bills are in the hands of the officers of the boat. I don't keep any books, because I sell for cash. This bill was not sold for cash. I sold the vegetables, &c., to the boat in one trip, and expected to get the money on her next trip. I keep memo. of the amount of bills rendered. I put the items down on the bill I furnish the boat, but do not enter them in my books.

(Signed) FANNY STROOP.

Sworn to & subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

J. D. COX, being duly sworn for libellants, says:

Am the libellant in this cause; was employed on the steamboat Lotawanna as pilot from 16th January to 1st February, 1870, @ $500 a month; from 2d February to 20th February, 1870, at rate of $500 a month; from 12th March to 3d April at same rate of wages; and from 29th of November, inclusively, the 28th December, inclusively, at same rate of wages.

94 The bill annexed to my libel is correct. It shows the time I have served, the rate of wages, and the differents credit' which I received.

There is now due to me, as wages, $1,316 *dollars.*

The due-bill annexed to libel was given to me and also the certificate of the clerk thereto annexed, showing the amount of wages due me for services on board the Lotawanna.

(Signed) J. D. COX.

Sworn to and subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

J. N. GEREN, being duly sworn for self, says:

Was pilot on the steamboat Lotawanna, and one of the libellants in this cause.

(Being shown his bill annexed to libel, says:)

The bill is correct in dates and amounts; served the same time, and at the same rate of wages, as my co-libellant. I did not come out on her between 29th November and 28th December, 1870. The amount now due to me is $679, as shown by detailed bill annexed to libel.

95 The boat gave me the due-bill annexed to libel as an acknowledgment of the amount due me by the boat. It has two credits on it, which, being deducted from the face of the bill, will leave the amount now claimed.

During the time I was employed on the Lotawanna she was engaged in commerce and navigation between the ports of New Orleans and Shreveport, making about 2 trips a month, on an average. I believe the tonnage of the Lotawanna to be between 400 and 500 tons.

(Signed) J. N. GEVEN.

Sworn to and subscribed before me January 24th, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

JOHN P. NOBLE, being duly sworn for Gatwood, intervenor, says:
Am in the employ of S. H. Gatwood, intervenor herein.
(Being shown bill annexed to intervention of Gatwood, says:)
The bill hereto annexed is correct in dates and amounts. It is
96 for lumber furnish' for the use of the steamboat Lotawanna. The amount now due on the bill is $296. The due-bill annexed to intervention was given to us as an acknowledgment of our claim.
(Signed) G. H. GATWOOD,
P'r JNO. P. NOBLE.

Sworn to & subscribed before me January 24th, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

F. V. CELLOS, being duly sworn for self, says:
Was employed as first clerk on st'm'r Lotawanna from November 27th, 1870, to January 7th, 1871, inclusive*ly*, at the rate of $300 per month. The balance now due me by the boat is $83.87, as stated in the bill annexed to intervention. Said bill is correct in dates and amounts.
(Signed) F. V. CELLOS.

Sworn to and subscribed before me January 24th, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

F. V. CELLOS, being sworn for John Callow, intervenor, says:
97 The bill annexed to intervention is correct. A copy of it was furnished to me and entered on the books of the steamer Lotawanna. It is for materials furnished for the use of the boat. The amount of bill for $41.45 is still due by the boat.
(Signed) F. V. CELLOS.

Sworn to and subscribed before me, January 24th, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

JOSEPH MORGAN, being sworn for Ruth and Larkin, intervenors, says:
Was master of the Lotawanna. (Being shown bill annexed to intervention, says:)
That the same is correct. The work was done on the boilers, and the mud-drum furnished for the use of the boat, under a contract, and the amount of $170, claimed in the bill, is correct.
(Signed) JOS. MORGAN.

Sworn to and subscribed before me, January 24th, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

98 JOHN KOUNS, being duly sworn for Canal-Street Ferry Company, says:
The bill (approved) annexed to the intervention of Canal-Street Ferry

Co., is the one I rendered Capt. Morgan, of the Lotawanna, and which he promised to pay as soon as he 'll have money. The services were rendered by the Little Jerry, night ferry-boat.

Cross-examined:

The usual compensation now for towing a boat across the river, is $20, i. e., for towing boats in the day-time, and this was established since the services were rendered by the Little Jerry.

Previous to that time I don't know what was the usual compensation. Boats are generally towed by coal-boat tugs.

(Signed) JOHN KOUNS.

Sworn to and subscribed before me, January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

A. S. DAVIDSON, being sworn for Canal-Street Ferry Co., intervenors, says:

99 Was in charge of the Little Jerry on the occasion of the services rendered by the Little Jerry, and mentioned in the bill annexed to intervention. The Cornelia and Bossier were on fire when I went to the assistance of the Lotawanna. There was very little space between the Lotawanna and the Cornelia & Bossier. She was in immediate proximity of them. Was called to the assistance of the steamer Lotawanna by Capt. Morgan, who was on board of her. I ran up to the Lotawanna; got lashed to her and pulled her out the stream. When I was considerably off the shore, about 50 yards from the shore, somebody on the Lotawanna hollowed out to let go my lien, which I did and left her. The Tyler previous to that had taken hold of her. At the time that the Tyler came and fastened to the Lotawanna, I let her go. She was at a perfectly safe distance, being to the windward of the burning boats, being about 50 yards from the burning boats. From the position of the Lotawanna, she would, to all appearances
100 have burned, had not the Little Jerry gone to her assistance. I think the sum of $100, charged by the Little Jerry for the services rendered by her, on that occasion, very reasonable. I stopped attending to my ferry business, and lost time thereby, to give assistance to the Lotawanna.

Cross-examined:

Can't state the usual compensation for towing boats. Am not in that business. I was engaged from 10 to 15 minutes to perform the services claimed in the bill. The expenses for running the Little Jerry, at night, are from 15 to $20. She is engaged as a night ferry between New Orleans and Algiers. She run no danger in performing the services claimed in bill. The Tyler towed the Lotawanna to the shore after I let go. Can't say whether it was the crew of the Tyler or Lotawanna that let go my line. The Tyler had been made fast to her four or five minutes before my lines were let go. The wind was blowing quartering on the Lotawanna before I took her away.

101 Had hold of the Lotawanna ten minutes before the Tyler took hold.

(Signed) A. J. DAVIDSON.

Sworn to and subscribed before me Jan'y 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claims of Tho's Ford.

F. V. CELLOS, being duly sworn, says:

The certificate annexed to libel of Thomas Ford is correct. Was given to him by me for services rendered on board the Lotawanna by him as deck-hand, at the dates and for the wages therein stated. The amount of $24.00 is now due him for wages.

Claim of E. Ellisworth.

The certificate annexed to his intervention is correct. It is for wages due him as fireman on the steamer Lotawanna at the dates and for wages stated in said certificate. Amount due him is $23.25.

Claim of Daniel Sewell.

The certificate annexed to intervention is correct. It is for
102 wages due him as deck-hand of the steamer Lotawanna during the time and for the wages therein stated. Amount now due him is $24.00.

Claim of C. Yeager.

The certificate annexed to his intervention is correct, and is for services rendered on st'm'r Lotawanna as fireman during the time and for the rate of wages set forth in said certificate. Amount now due him is $25.00.

Claim of Tho's Chapman.

The certificate annexed to his intervention is correct, and is for wages due him as fireman on the steamer Lotawanna during the time and for wages therein stated. Amount due him now is $25.00.

Claim of Jim Hailey.

The certificate annexed to his libel of intervention is correct, and is for wages due him for services rendered on steamer Lotawanna as fireman during the time and at the wages therein stated. Amount now due him is $23.25.

103 I was employed as clerk of the boat during all the time the above-named parties were employed on her, and all the certificates referred to above were given by me.

(Signed) F. V. CELLOS.

Sworn to and subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

JOSEPH MORGAN, being sworn, says:

On claim of John Kepting.

He was employed as watchman and deck-sweeper on the Lotawanna from about the middle of May to 25 November, 1870. The boat now

owes him four months, making the whole amount now due him fifty-seven $\frac{50}{100}$ dollars, ($67.50,) for wages on said boat.

Was master of the st'm'r Lotawanna during all the time Hepting was working on said boat.

I don't mean to say that he worked all the time from middle of May to 25 November; but he worked four months and fifteen days within that period.

104 On claim of Cha's Miller.

Being shown the bill of Charles Miller, annexed to intervention, says:

It is correct and for wages due him as watchman on the steamer Lotawanna just previous to her seizure and his board during the same time. The amount now due him is $12.50.

(Signed) JOS. MORGAN.

Sworn to and subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of L. Q. C. Puckette.

F. V. CELLOS, recalled, says:

I know Captain Puckette. The bill annexed to his intervention is correct in dates and amounts. He was employed as capt. of the st'm'r Lotawanna from 25th November to 29th December, 1870, both days included, at the rate of $600 a month. He was on the boat 35 days, and the boat now owes him, as stated in the bill, a balance of $378.95.

During the whole time he was on her the boat was engaged
105 in commerce between the ports of New Orleans and points on the Red River, carrying freight and passengers.

(Signed) FER'D V. CELLOS.

Sworn to and subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of E. Conery & Son & Co.

JOSEPH MORGAN, recalled for E. Conery, Son & Co., says:

The due-bill annexed to libel of intervention of E. Conery, Son & Co. is correct. It is for money advanced by them to the boat to pay her watchman one month' wages on account. I handed to the watchman the identical money which I received from Conery, Son & Co. to pay him.

(Signed) JOSEPH MORGAN.

Sworn to & subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of Moffett & Brown.

FERDINAND V. CELLOS, recalled, says:

The claim of Moffett & Brown for lumber furnished, for the use of the boat, is correct in dates and amount. Am't due them is $42.50.

106 Claim of Crescent City Ice Co.

The bill annexed to intervention is correct in dates and amounts, and is for ice furnished to and used on the steamer Lotawanna, at the dates therein mentioned. Amount due them now is $30.

Claim of J. B. Pigniolo.

Bill of Pignolio is correct, and there is $8.50 due him, as stated in his bill.

(Signed) FER'D V. CELLOS.

Sworn to & subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

GEORGE CROSBY, sworn for City of New Orleans:

Am a wharfinger of the city of New Orleans, and collector of levee dues for the second district.

The bill of $22.30 annexed to intervention of the City of New Orleans is correct. It is for wharfage due the city at dates mentioned in the bill by the steamer Lotawanna, for one trip of said steamer, and is still due to the city.

(Signed) GEORGE CROSBY.

107 Sworn to & subscribed before me January 24th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

*Intervention of R. J. Souler.—Filed January 26th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of R. J. Souler, against the proceeds of the steamer Lotawanna, now in the registrar of this honorable court, and against all persons claiming any interest in the same, in a cause of contract, civil and maritime, alleges as follows:

1. That the steamer Lotawanna was in the port of New Orleans 18th December, 1870, and, designed on a voyage up the Mississippi and Red River, to the port of Shreveport, and engaged in commerce and navigation, and in need of money to pay the expenses of the
108 boat, the master of said boat borrowed from your libellant the sum of three hundred and twelve dollars, to pay for stores and other articles furnished to said boat to enable her to make said voyage, all of which will more fully appear from the due-bill annexed, and made part hereof.

Second. That said steamboat Lotawanna has been sold by virtue of admiralty process issued from this honorable court in the above cause, and her proceeds are now in the registrar of this honorable court.

3d. That all and singular the premises are true.

Wherefore libellant prays that this libel of intervention be filed, and

that process, in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the proceeds of said boat, and that all persons claiming any interest in the same be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of libellant's aforesaid claim, with
109 privilege and all costs of suit; and libellant prays for all general relief.

(Signed) BENTWICK EGAN,
*Proctor.*

( " ) R. J. SOULER.

Sworn to & subscribed before me, this 26th January, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

*Document annexed to intervention of J. B. Souler.*

NEW ORLEANS, *Dec. 18th*, 1870.

Due on return of trip No. 2, to R. J. Souler, three hundred and twelve dollars for money loaned to the steamboat Lotawanna and owners to pay engineer bill and store bill.

$212.00.

(Signed) JOSEPH MORGAN.
J. D. COX.

*Intervention of Wilson Fagan & Co. Filed January 26th*, 1871.

J. D. COX ET AL.
*vs.*
LOTAWANNA.

To the honorable E. H. Durell, judge of the United States
110 district court for the district of Louisiana:

The libel of intervention of Wilson, Fagan & Co., a commercial firm residing and doing business in the city of New Orleans, and composed of Wilson, William Fagan, and Benjamin Miller, against the steamer Lotawanna, or her proceeds now in the registrar of this honorable court, and against all persons claiming any interest therein in a cause of contract, civil and maritime, alleges as follows:

1° That in the months of November and December, 1869, and January, February, March, April, June, and December, 1870, the steamer Lotawanna, a vessel of more than 100 tons burthen, whereof Jos. Morgan was at one time master, and L. Q. C. Puckette at another time, was engaged in commerce and navigation between the port of New Orleans on the Mississippi River and various ports and places on Red River and its tributaries, making about two trips a month.

Second. That in the months above-mentioned, said boat being in need of meat, hardware, ship chandlery, and repairs, to enable said
111 boat to prosecute her said voyages, and money to pay her insurance premiums, the master of said boat applied to and purchased from your libellants on various dates in said months, various quantities of meats for the use of said boat, the amounts, dates, and quantities of which will more fully appear by reference to the detail-bill annexed and made part hereof; and also purchased from Lagan & Mackison, in

the months of July, August and September, 1870, various quantities hardware and ship chandlery, for the repairing of said boat in said months, which account has been subrogated to libellants; all of which will more fully appear by reference to the detailed bill annexed and made part hereof; and also employed Hugh Williams to paint said boat in July, 1870; all of which will more fully appear by reference to the bill annexed and made part hereof, and which has been subrogated to libellants; and that the master of said boat borrowed from libellants the sum of $405.80 to pay insurance premiums on said boat in November, 1870.

112 3rd. That the said steamboat Lotawanna is now indebted to libellants in the sum of fourteen hundred and forty-four $\frac{68}{100}$ dollars for supplies of meat sold and delivered to her in the months and on the dates mentioned in the bill annexed; and the sum of four hundred and five eighty $\frac{}{100}$ dollars for money loaned to pay insurance premiums on the boat; and five hundred and thirty-eight $\frac{71}{100}$ dollars as subrogees of the bill of Lagan & Mackinson for hardware & ship chandlery, sold and delivered by them to said boat at the dates mentioned in the bill annexed; and the sum of seven hundred dollars as subrogees of the bill of Hugh Williams for painting said boat in the month of July, 1870, as stated in the bill annexed; making the total intebtedness of said boat to libellants amount to the sum of three thousand and ninety-one $\frac{20}{100}$ dollars, ($3,091.20;) all of which will more fully appear by reference to the bills and subrogations thereto annexed and made part of this libel.

Fourth. That the articles mentioned in the bills annexed were
113 delivered to and used on said boat. That the prices charged are reasonable and the credit therefor was given to said boat, and that they could not have been procured on the credit of her owners, and that they were absolutely and indispensably necessary to enable her to prosecute her said voyages.

5th. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States, and of this hon. court.

Wherefore libellants pray that this libel of intervention be filed, and that process, in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawanna, or her proceeds, now in the register of this honorable court; and that all persons claiming any interest in the same may be cited to appear and answer the matters aforesaid, and, that after due proceedings had, that this honorable court *and that all persons claiming any interest in the same may be cited to appear and*
114 *answer the matters aforesaid, and, that after due proceedings had, that this honorable court* will be pleased to decree the payment of libellants' aforesaid claim of $3,091$\frac{20}{100}$ out of the proceeds of said steamer Lotawanna, with privilege and all costs of suit; and libellants pray for general relief.

(Signed) BENTWICK EGAN, *Proctor.*
( " ) W'M FAGAN.

Sworn to & subscribed before me this 26th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Documents attached to intervention of Wilson, Fagan & Co.*

NEW ORLEANS, *July 23d*, 1870.

*St'm'r Lotawanna to Hugh Williams, Dr.*

| | |
|---|---|
| To painting st'r Lotawanna as per contract | $1,000 |
| Cr. by cash | 300 |
| For balance due | $700 |

NEW ORLEANS, *Nov. 29th*, 1870.

For value received I hereby transfer and sell the above bill against the st'm'r Lotawanna and owners to Mess. Wilson, Fagan & Co.,
115 with full subrogation to all my rights, actions, and privileges, said bill amounting to the sum of seven hundred dollars.
(Signed) H. WILLIAMS.

*St'r Lotawanna, bought of Lagan & Mackison.*

| | | | | |
|---|---|---|---|---|
| July | 1st. | 2 14-in. flat smooth files, *a* 1.50 | | 3 00 |
| | 2. | 1 lb. emery | | 25 |
| | 6. | 15 lbs. sheet-lead, *a* 16½, 40; 3 lbs. mixed gum, *a* 65c., $1.95 | | 4 35 |
| | 7. | 5½ feet 2-in. pipe, *a* 56, $3.08; 1 2-in. fee', $1.05 | 4 13 | |
| | | 1 2-in. flanger, $1.35; 1 2-in. union, $2.28; 1 2-in. plug, 45c. | 4 05 | |
| | | 1 copper strainer, $2.25; fitting up pipe, $1.50 | 3 75 | |
| | | 2 14-in. ½ r'd's 2nd cut file, $1.60; 1 14-in. round file, $1.50 | 3 10 | |
| | | | | 15 03 |
| | 9. | 12 bolts, 2½, 1⅝, *a* 8c., $2.00, $1.02; 17 lbs. washers, *a* 20c. & 30c. | | 1 32 |
| | 11. | 5¾ sheet gum, *a* 85c., $4.89; 6 bolts, *a* 5½, 33c.; ¼ lbs. washers, *a* 20c., 05 | | 5 29 |
| | 12. | 600 lbs. sheet-iron chimneys, *a* 9c., $54.00; drayage and ferriage, $2.50 | | 56 50 |
| 116 | | 120 lbs. flat iron, 1½ × ¼, 5½ | | 6 60 |
| | 13. | 13 lbs. sheet lead, *a* 16c., $2.08; 202 lbs. sheet iron, *a* 9c., $18 | 20 26 | |
| | | 138 lbs. flat iron, 1½ × ⅝, *a* 10c., $13.80; drayage and ferriage, $2.50 | 16 30 | |
| | | | | 36 56 |
| | 14. | 64 lbs. flat iron, *a* 10c., $6, (punched) | 6 40 | |
| | | 125 lbs. flat iron, (punched,) *a* 10c., $12.50; drayage and ferriage, $2.50 | 15 00 | |
| | | 2½ lbs. rivets, *a* 2*s* | 63 | |
| | | | | 32 03 |
| | 15. | 2 bars flat iron, 2 × ⅝, 112 lbs., *a* 5½ | 6 16 | |
| | | 2 do, flat iron, (punched,) 1½ × 3, 58 lbs., *a* 10c. | 5 80 | |
| | | Drayage | 2 50 | |
| | | 2 sheets No. 16 iron for bridge wall, 108 lbs., *a* 10c | 10 80 | |
| | | 2 M. & H., 2 days, at $15.00 | 30 00 | |
| | | | | 55 26 |
| | 18. | 2 M. & H., 1 day. | | 15 00 |
| | 19. | 9 lbs. sheet-iron, *a* 8c., 72c.; 1 2-inch elbow, 6*s*.; 1 2-in. nipple, 55c | 2 02 | |
| | | 16 feet 2-inch pipe, *a* 56c., $8.96; drayage, $2.50 | 11 46 | |
| | | | | 13 48 |
| | 20. | 2 days 2 M. & H., *a* 15.00 | 45 00 | |
| | | 6 bolts, 1½ × ¼, *a* 5½ | 33 | |
| | | | | 45 33 |
| | 21. | 2 2-inch cocks, *a* $9.00, $18.00: 1 2-inch fee', $1.05 | 19 05 | |
| | | 1 2-in. nipple, 55c.; cutting 3 threads on old pipe, $1.25 | 1 80 | |
| 117 | | 5 blower-points, *a* 6*s*., $3.75; 1 engr. punching-hammer, 2.00. | 5 75 | |
| | | 2 y'ds canvass, *a* 40c., 80c.; 1½ lbs. white marling. *a* 60, 90c. | 1 70 | |
| | | | | 28 30 |
| | 22. | 7 lbs. bolts, *a* 1*s*. 88c.; 50 lbs. nails, a 8c., $4.00; 6 lbs. spikes, *a* 9c., $5.40 | 10 28 | |

| | | | | |
|---|---|---|---|---|
| | | 2 1½-inch elbows, *a* 45c., 90c.; 2 lbs. washers, *a* 20c., 40c .. | 1 30 | |
| | | 9 lbs. lead-gasket, *a* 20c..... | 1 80 | |
| | | | | 13 38 |
| | 23. | 10 gall. lard-oil, *a* 1.50, $15.00; can, $2.00..... | 17 00 | |
| | | 20 lbs. nails, *a* 8c., $1.60; 4 bolts, *a* 5¾, 23c.; 15 lbs. r'd iron, *a* 6½, 98c..... | 2 81 | |
| | | 1½ lb. square packing, *a* 1.00, $1.50; 1¾ lb. soapstone-packing, *a* 90c., $1.13..... | 2 63 | |
| | | 2 tin squirt-cans, *a* 50c. $1.00; 5 lbs. tallow, *a* 15c., 75..... | 1 75 | |
| | | Over..... | 24 19 | 321 66 |
| | | Bro't over ..... | 24 19 | 321 66 |
| July | 23. | 1½ lbs. leather, *a* 6*s*., $1.12; ½ quire emery-paper, 4*s*..... | 1 62 | |
| | | 5 lbs. bolts, *a* 1*s*., 63c., 1 sledge-handle, 40c..... | 1 03 | |
| | | 14 feet 2-in. pipe, *a* 56½, 84; 2 2-in. elbows, *a* 6*s*., $1.50..... | 9 34 | |
| | | 1 1-in. fee', 33c.; 2 1-inch-bushings, *a* 21c., 42c.; 1 1-in. nipple, 20c..... | 95 | |
| 118 | | 1½ in. elbow, 12c, 18c.; 18 lbs. rivets, *a* 2*s*., $4.50..... | 4 62 | |
| | | 3 days, M. & H., *a* 7.50..... | 22 50 | |
| | | 20 lbs. nails, *a* 8c., $1.60; 1 padlock, 30c..... | 1 90 | |
| | | 3 head-light wicks, *a* 2*s*., $1.25; 1 doz. chimneys, $7.00 ..... | 8 25 | |
| | | 2 gall. head-light oil, *a* 6*s*., $1.50; can for do., 6*s*..... | 2 25 | |
| | | Drilling holes in lock, 20c.; ½ doz. 2½-in. iron screws, 20c .. | 40 | |
| | | 8 bolts, 1¾ × ⅝, *a* 8c., 64c.; 1 lb. ⅝-washers, 20c..... | 84 | |
| | | 2 lbs. candles, *a* 30c., 60; 1 cylinda*r*-cock, $4.00..... | 4 60 | |
| | | | | 82 49 |
| | 25. | 6 bolts, 2½ × ⅝, *a* 8½..... | | 51 |
| August | 2d. | 1 ¾ T, 22c.; 1¾ bushing, 16c.; ½ day, M. & H., $3.75 ..... | 4 13 | |
| | | 6 lbs. sheet-gum, *a* 85c., $5.10; 1 bolt, 20c.; 1 1-in. globe-valve, $3.75..... | 9 05 | |
| | | 1¾ globe-valve, $2.75; 1 1-in. plug, 35; 1 lb. emery, 2*s* .... | 3 35 | |
| | | 1 maul-handle..... | 30 | |
| | | | | 16 83 |
| | 3. | 6½ lbs. flat iron, *a* 6c., 39c.; 2⅝ lbs. sheet copper, *a* 60c., $1.65; 1½ lbs. cl'h marling, *a* 60, 90c..... | | 2 94 |
| | 4. | 1 sack-needle, 10c.; 1 sk'in twine, 40c.; 40 lbs. candles, *a* 22c., $8.80..... | 9 30 | |
| | | 10 gall. head-light oil, *a* 6*s*., $7.50; can for same, 2.25 ..... | 9 75 | |
| 119 | | 3 lantern-globes, *a* 6*s*, $2.25; 2 lamp-bottoms, *a* 6*s*., $1.50.. | 3 75 | |
| | | 9 lbs. lead-gasket, *a* 20c., $1.80; 2 lbs. red-lead, 20c., 40 ... | 2 20 | |
| | | 2 gall. coal-tar, *a* 50c., $1.00; 1 bott. copal-varnish, 75c... | 1 75 | |
| | | 2 lbs. hemp-packing, *a* 2*s*..... | 5 00 | |
| | | | | 31 75 |
| | 15. | 1 union, $1.50; 1 elbow, 40c ..... | | 1 90 |
| | 16. | 1 1-in. union-joint, 95c., 1 ¾-elbow, 16c ..... | 1 11 | |
| | | 1¼ lbs. cotton-rope, *a* 80c., $1.00; 1½ soap-stone packing, *a* 90c., 1.35 ..... | 2 35 | |
| | | 1 lb. emery. 2*s*.; 5 lbs. bees-wax, *a* 60c., $3.00; 5 lbs. tallow, *a* 15c., 75c..... | 4 00 | |
| | | | | 7 46 |
| | 17. | 10 lbs. sounding-lead, *a* 2*s*., $1.00; 1 doz. scrub-brushes, 4.50 | 7 50 | |
| | | 6 split brooms, *a* 2*s*., $1.50; 1 doz. scrub-brushes. $4.00... | 5 50 | |
| | | 10 gall. lard-oil, *a* $1.00; 25 lbs. white-lead, *a* 10½, 2.50 .... | 17 50 | |
| | | 3 lbs. red-lead, *a* 20c., 60c.; 56 feet ½-in. pipe, *a* 12c., $6.72 | 7 32 | |
| | | 7 ½-in. elbows, *a* 12, 84c.; 2 ½-in. globe-valve', *a* $2.00, $4.00 | 4 84 | |
| | | 2 ½-in. nipple, *a* 12c., 84c.; 1 ½-in. union, 55c..... | 79 | |
| | | Fitting up, $1.50; ½ day, M. & H., $3.75..... | 5 25 | |
| | | | | 48 20 |
| 120 | 29. | 1½ lbs. cotton-rope, *a* 8c., 1¾, $13.50; 2 lbs. ste'm-packing, *a* 90c., $1.57; 34 lbs. hemp-packing, *a* 2 *s*., $8.50..... | | 11 07 |
| Sept. | 1st. | 10 gall. lard-oil, *a* $1.35, $13.50; 2 lbs. ste'm-packing, *a* 6*s*., 1.50; 1 emery, 2*s*.; 5 lbs. tallow, 15c., 75c..... | | 16 00 |
| | 13. | Repairing steam-pipe, $12.50; 1 lamp-globe, 60c.; 1 lamp-bottom, 60c.: 1 hank twine, 35c..... | | 14 05 |
| | 14. | 3 lbs. eagle packing, *a* 50c., $1.50; ½ lb. copper wire, 38c.; 5 boxes lye, *a* 2*s*., $1.25..... | 3 13 | |
| | | 10 gall. lard-oil, *a* 1.35, $13.50; 1 pane glass, 2*s*.; 1 lb. emery, 2*s*.; dray, 48c ..... | 14 40 | |
| | | | | 17 53 |

CR.

| | | | |
|---|---|---|---|
| Sept. | 13. | By cash | 33 67 |
| | | | $538 72 |

NEW ORLEANS, *Nov. 19th*, 1870.

For value received, we hereby transfer and sell the above bill against the steamboat Lotawanna & owners, Joseph Morgan and Philipp Work, to Messrs. Wilson, Fagan & Co., with full subrogation to all our rights, privileges, &c., against said steamboat and owners, said bill amounting to the sum of five hundred and thirty-eight $\frac{72}{100}$ dollars.

LAGAN & MACKISON.

*St'r Lotawanna & owners bo't of Wilson, Fagan & Co.*

121 Nov. 24. To amount paid Atlantic Insurance Co... ... $405 80

*St'r Lotawanna & owners bo't of Wilson, Fagan & Co.*

| | | | |
|---|---|---|---|
| 1869. | | | |
| Nov. | 30. | To amount bill rendered | 35 43 |
| Dec. | 6. | " " " " | 199 98 |
| " | 25. | " " " " | 221 91 |
| 1870. | | | |
| Jan. | 18. | " " " " | 203 50 |
| Feb'y | 3. | " " " " | 239 40 |
| " | 23. | " " " " | 267 35 |
| March | 16. | " " " " | 255 70 |
| April | 14. | " " " " | 168 90 |
| " | 30. | " " " " | 209 52 |
| June | 7. | " " " " | 127 50 |
| Dec. | 17. | " " " " | 159 20 |
| | | | 2,088 39 |

CR.

| | | | |
|---|---|---|---|
| 1870. | | | |
| April | 30. | By cash | 643 71 |
| | | By balance due | 1,444 68 |
| | | | $2,088 39 |

*Libel of intervention of David Hughes.—Filed May 28th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

122 The libel of intervention of David Hughes, residing and doing business in the city of New Orleans, against the steamer Lotawanna or her proceeds, now in the registrar of this honorable court, and against all persons intervening for their interest therein, in a cause of contract, civil and maritime, alleges as follows:

1°. That the steamer Lotawanna, whereof Joseph Morgan was at one time, and L. Q. C. Puckett another time, master, being in the port of New Orleans at various dates in the months of January, February, March, April, November, and December, 1870, and engaged in making voyages between the port of New Orleans and various points and places on Red River, carrying freight and passengers for hire, the master of said boat applied to and purchased from your libellants various quantities of bread and crackers for the use of the passengers and crew of said boat, and amounting to the sum of three hundred and ninety $\frac{85}{100}$ dollars; all of which will more fully appear by reference to the detailed bill annexed to & made part hereof.

123 2d. That the bread, crackers, &c., sold and delivered by libellants to said steamer Lotawanna as detailed in the bill annexed, were absolutely and indispensibly necessary to enable said boat to prosecute her said voyages; that the prices charged for the same are just and reasonable; that the credit therefore was given to the boat, and that they could not have been procured on the credit of her owners.

3rd. That said steamer Lotawanna has been sold by virtue of an order rendered by this honorable court in the above cause.

4th. That all and singular the premises are true, and within the jurisdiction of this honorable court.

Wherefore libellant prays that process in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamer Lotawanna or her proceeds; that this libel of intervention be filed, and that all persons claiming any interest in said boat or her proceeds may be

124 cited to answer the matters aforesaid, and, after due proceedings, that this honorable will be pleased to decree the payment of libellant's aforesaid claim, with privilege and preference, out of the proceeds of said boat, now in the registrar of this honorable court, with all costs of suit; and libellants prays for general relief.

(Signed) BENTWICK EAGAN, *Proctor.*
( " ) DAVID HUGHES.

Sworn to & subscribed before me this 28th January, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Document annexed to intervention of David Hughes.*

NEW ORLEANS, *January 2d*, 1871.

*St'r Lotawanna & owners bought of David D. Hughes.*

As per bill rendered ..... $390 82

*Testimony for intervenors.—Filed February 1st*, 1871.

J. D. COX ET AL.
*vs.*
ST'M'R LOTAWANNA.

Testimony on behalf of parties represented by B. Egan, esq.,

125 taken before K. Loew, U. S. commissioner, Feb'uary 1st, 1871.

Present, B. Egan, esq. Other proctors duly notified and not present. Reference is made to notice annexed.

JAMES MACKISON, being duly sworn, says:

Am a member of the firm of Lagan & Mackison, doing business in this city, and intervenors in this case.

The bill annexed to intervention is correct in dates and amounts.

It is for hardware and ship-chandlery sold and delivered to the steamer Lotawana at the dates therein mentioned.

The charges are reasonable, and the usual prices. The amount now due the firm is $484 $\frac{40}{100}$.

This hardware and ship-chandlery was necessary to the use of the boat, which could not have got on without it. They could not have got the articles on the credit of the boat's owners, to my knowledge. All the articles were used in the boat.

(Signed) JAMES MACKISON.

Sworn to and subscribed before me this 1st of February, 1872.

126 (Signed) K. LOEW,
*U. S. Comm'r.*

WILLIAM D. PETERSON, sworn for James M. Peterson, intervenor, says:

The bill and due-bills annexed to intervention, are correct in dates and amounts. I sold and delivered, personally, the coal mentioned in the bills sold to the steamboat Lotawana, on the 1st and 18th December, 1870. The prices therein charged are the usual and reasonable prices. The coal was sold to the boat for fuel.

The boat was engaged in navigation and commerce between New Orleans and points on Red River.

The amount now due for the coal is $467.50, and, in acknowledgment of the debt, the boat gave the two due-bills annexed to the intervention.

This coal was necessary to enable the boat to prosecute her voyage. She could not have dispensed with it, and she could not have procured it on the personal credit of her owners.

(Signed) W'M D. PETERSON.

127 Sworn to and subscribed before me, February 1st, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of Brady & Palmer.

T. R. BRADY, being duly sworn, says:

Am a member of the firm of Brady & Palmer, in liquidation, and intervenor in this cause.

The bill of $38.05 annexed to intervention is correct in dates and amounts. It was for lumber furnished and used on the boat at the dates mentioned in the bill, furnished to and used by the st. bt. Lotawana.

The material was absolutely necessary for her to enable her to prosecute her voyage. The prices are just and reasonable. The Lotawanna was engaged in navigation and commerce between New Orleans and ports on Red River.

The lumber could not have been procured on the credit of the owners of the boat.

(Signed) T. R. BRADY.

Sworn to and subscribed before me, Feb'uary 1st, 1871.

128 (Signed) K. LOEW,
*U. S. Comm'r.*

On claim of England, Fallon & Co.

RICHARD ENGLAND, being duly sworn, says:
Am a member of the firm of England, Fallon & Co., of New Orleans. The bill annexed to our intervention is correct in dates and amounts. It is for stores and supplies (or fish) furnished and delivered to the steamer Lotawana for her use, in the months of June and December, 1870. The amount now due is $40.50.

(Signed) RICHARD ENGLAND.

Sworn to and subscribed before me this 1st Feb'uary, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of David Hughes.

DAVID HUGHES, being duly sworn, says:
The bill annexed to my intervention is correct in dates and amounts. It was for bread and crackers delivered to the steamer Lotawana,
129 at the dates therein mentioned. The prices charged are the usual prices. The bread and crackers were for supplies to the officers, crew, and passengers of the boat. The boat was engaged in commerce and navigation at the time they were furnished, and they could not have been procured at the personal credit of the owners. The amount now due for the same is $390.82.

(Signed) DAVID HUGHES.

Sworn to and subscribed before me this 1st Feb'uary, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of D. C. McCan & Son.

CHARLES MCCAN, being duly sworn, says:
Am a member of the firm of D. C. McCan & Son, doing business in New Orleans, and intervenor in this case.
The bill for $762.39 annexed to our intervention is correct in dates and amount. It is for foundry work and materials furnished by us to the steamer Lotawanna, at the dates therein mentioned, making repairs to her machinery, &c.
The prices charged are reasonable and the usual prices.
130 The boat was engaged in commerce and navigation at the time the repairs were made to enable her to prosecute her intended voyages. She was making voyages between New Orleans and various ports and places on Red River. The repairs made and materials furnished were absolutely necessary to enable her to prosecute her voyage, and could not have been procured on the personal credit of her owners.

(Signed) CHA'S MCCAN.

Sworn to and subscribed before me Feb'uary 1st, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On same claim.

JAMES D. THOMPSON, being duly sworn, says:

Am in the employ of D. C. McCan & Son, intervenors herein. (Being shown bill annexed to their interventions, says it is correct in dates and amount.) It is for foundry work and materials furnished to steamer Lotawanna at dates therein mentioned. The prices charged are reasonable. The work was necessary to enable the boat to prosecute her voyages and the amount now due McCan & Son is $762.39.
131 The master of the boat frequently promised to pay it, but failed to do so.

(Signed) J. D. THOMPSON.

Sworn to and subscribed before me this 1st Feb'uary, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of Wilson, Fagan & Co.

WILLIAM FAGAN, being duly sworn, says:

Am a member of the firm of Wilson, Fagan & Co., of N. Orleans. The steamer Lotawanna owes us for meat sold and delivered by us to her; being balance due, $1,444.68.

The meat was sold and delivered at the dates mentioned in said bill, and bills rendered therefor to the boat as stated in the bill annexed to our intervention. This meat was used in the boat for supplying the passengers, officers, and crew. The boat was engaged in commerce and navigation between New Orleans and various ports and places on Red River. The prices are reasonable, and the usual market prices, and the meat was indispensably necessary to enable the boat to prose-
132 cute *on* her voyages, and could not have been procured on the credit of her owners. The boat also owes us the further sum of $538.78, being the amount of a bill of Lagan & Mackison against said boat for hardware and ship chandlery furnished to and used on the boat at the dates mentioned in the bill. This bill was subrogated and transferred to us by Lagan & Mackison, on the 19th November, 1870, as shown by the transfer and subrogation at the foot of the bill. Also the sum of $700, being balance due on a bill of Hughes Williams against the steamer Lotawanna, for painting said boat in July, 1870, preparing her to engage in her usual trade between New Orleans and various places on Red River, which bill has also been transferred and subrogated to us on the 29th November, 1870, as shown by the transfer and subrogation at the foot of said bill. Also the sum of $405.80, being the amount of insurance premium paid by us for said boat on 24th November, 1870, at the request of her master. Making the total amount
133 due by the steamer Lotawanna $3,091.20.

The master of said boat repeatedly promised to pay the same, but thus far has not done it, tho' often requested so to do.

The supplies, labor, and materials described in the bills annexed to our intervention, were all furnished at the dates therein mentioned, the prices charged therefor reasonable, and they were all indispensably necessary to the boat prosecuting her voyages, and could not have been procured on the credit of the owners.

(Signed) WILLIAM FAGAN.

Sworn to & subscribed before me Feb'uary 1st, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On same claim.

R. A. WILSON, being duly sworn, says:

Am in the employ of Wilson, Fagan & Co., intervenors herein, as clerk.

I have carefully examined the testimony of William Fagan on
134 the claim of Wilson Fagan & Co., and corroborate it in every particular to my own and personal knowledge. It is all correct. The amount now due them by the Lotawanna is $3,091.20, as therein stated.

(Signed) R. A. WILSON.

Sworn to and subscribed before me this 1st day of Feb'uary, A. D. 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of M. J. Taylor.

MICHAEL J. TAYLOR, being duly sworn, says:

(Being shown the bill annexed to his intervention says:)

It is correct in dates and amounts, and it is for copper, tin, and sheet-iron work performed by me in the steamer Lotawanna, at the dates mentioned in said bill. The amount now due is $110. This work was necessary for the boat to prosecute her voyages, and the captain has repeatedly promised to pay me, and could not have been procured on the credit of the owners of said steamer Lotawanna. The boat was engaged in commerce and navigation at the time, between New Orleans
135 and various places on Red River.

(Signed) MICHAEL J. TAYLOR.

Sworn to & subscribed before me this 1st Feb'uary, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of John Hennessy.

JOHN HENNESSY, being first duly sworn, says:

(Being shown the two bills annexed to his intervention says:)

They are correct in dates and amounts. They are for sheet-iron and copper work and gas-fitting furnished by me to the steamer Lotawanna at the dates therein mentioned.

The prices charged are reasonable, and the usual charges. The amount now due me is $128.42. This work was necessary to enable the boat to prosecute her voyages, and could not have been procured on the personal credit of her owners.

The boat was at the time engaged in commerce and navigation between the port of New Orleans and various places on Red River.

136 (Signed) JOHN HENNESSEY.

Sworn to & subscribed before me Feb'uary 1st, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of McCloskey, Bigley & Co.

JACK CLARK, being first duly sworn, says:

Am in the employ of Bigley, McCloskey & Co., of New Orleans, as salesman, and have charge of the river business.

The four due-bills annexed to the intervention are correct, and were given by the clerk of the Lotawanna to me for coal sold and delivered by myself to the boat at the dates therein mentioned in each of the due-bills—is the amount the boat actually received. The prices charged were the usual market rates at the time. The coal was used on the boat as fuel. She was engaged in commerce and navigation between this port and various places on Red River.

The coal could not have been procured on the credit of the owners, and was necessary to enable the boat to prosecute her voyages.

187 The towage bill, also annexed to intervention, is correct. The balance due for coal and towage is $809.75, as stated in the due-bills and bill annexed to the intervention. The due-bills were all signed by the clerks of the boat, acknowledging the receipt of the coal mentioned therein.

(Signed) JACK CLARK.

Sworn to & subscribed before me Feb'uary 1st, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

Examination of witnesses adjourned till Friday, 3d Feb'uary, 1871, at 5¼ p. m.

*Testimony for Moran, Noble, and Woods, William H. Reynolds, and Nick Theodore, intervenors.—Filed January 3d*, 1871.

J. D. COX ET AL. }
*vs.*
STR LOTAWANNA. }

Testimony taken before K. Loew, U. S. commissioner, Feb'uary 3d, 1871.

B. Egan, esq., proctor, present.

On claim of Moran, Noble & Woods.

138 R. H. NOBLE, being first duly sworn, says:

Am a member of the firm of Moran, Noble & Woods, intervenors in this case.

The bill annexed to my intervention is correct in dates and amount. It is for stores furnished by my firm to the steamer Lotawanna at the dates mentioned in bill. The amount due my firm is $684.01.

At the time said stores were furnished to the steamer Lotawanna she was engaged in commerce and navigation between the port of New Orleans and various places on Red River. The prices charged in the bill are reasonable and the usual prices. They were all furnished in New Orleans, and were indispensably necessary to enable the boat to prosecute her voyages. They were supplies for the passengers, officers, & crew of the boat, and could not have been procured on the personal credit of the owners or master of the boat.

(Signed) R. H. NOBLE.

Sworn to and subscribed before me Feb'uary 3d, 1871.
(Signed) K. LOEW, *U. S. C.*

139 On claim of Nich. Theodore.

NICHOLAS THEODORE, being first duly sworn, says:

The bill for $225 annexed to my intervention is correct in dates and amount. It is for labor and materials furnished by me to the steamer Lotawanna in taking down chimneys, painting them, and paving under the boilers and furnace, in July last, as stated in the bill. The amount charged is reasonable and the usual one for such work, and the master of the boat repeatedly promised to pay me, and he has approved my bill, as appears by reference thereto. At the time the work was being done, the boat was preparing to resume her usual trade between this port and various places on Red River, and the work could not have been procured on the credit of the master and owners.

(Signed) N. THEODORE.

Sworn to and subscribed before me Feb'uary 3d, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of W. H. Reynolds.

140 WILLIAM H. REYNOLDS, being first duly sworn, says:

The bill for $100 annexed to my intervention is correct in dates and amount. It is for work done on, & materials furnished to, the steamer Lotawanna at the dates mentioned in said bill.

The prices therein charged are reasonable, and the usual prices at the time. The master and owners of the boat repeatedly promised to pay the bill. This work was absolutely necessary to enable the boat to prosecute her voyages, and she was engaged in commerce between this port and other points on Red River.

The work and materials could have been procured on the personal credit of the master or owners of the boat.

(Signed) W. H. REYNOLDS.

Sworn to and subscribed before me Feb'uary 3d, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

Adjourned till Friday, Feb'uary 10th, inst., at 5½ p. m.

141 *Libel of intervention of P. A. Work.—Filed Feb'uary 4th*, 1871.

J. D. COX ET AL.
*vs.*
THE ST'R LOTAWANNA. } No. 9642.

United States district court. In admiralty.

To the honorable E. H. Durell, judge of the district court of the United States for the district of Louisiana:

And now comes Philip A. Work, and claim' that he is, and was at the date of the filing of the libel and of the seizure herein, an owner of one undivided fourth part of the steamer Lotawanna, and excepts to the

intervening libels filed herein, on behalf of Boyd, Wilmot & Co., Moran, Noble & Wood, Ruth and Larkin, E. Conery & Son & Co., D. C. McCan, Fanny Stroop and Kouns & Scovel, F. A. Cellos, Puckett, McCloskey, Bigley & Co. and J. M. Peterson, The City of New Orleans, David Hughes, Lagan & Mackison, Thomas Ford, E. Ellisworth & others, John Gallon, R. J. Soudes, John Henessey, and others, the inter-
142 venors named in the intervention of John Henessey and Wilson, Fagan & Co., on the following grounds:

1st. Because this court is without jurisdiction, ratione materiæ of the matters alleged in said interventions.

2d. Because this court is without jurisdiction to entertain the said interventions or to adjudicate thereon, for this: That at the date when the said several causes of action set forth in the interventions aforesaid arose and accrued, all of the owners of said steamer Lotawanna were citizens of the State of Louisiana, and resided in said State, and in the city of New Orleans, at which port the said boat was registered and enrolled.

3d. Because, the said intervenors did not, on filing their allegations, give stipulations, with sureties, to abide by the final decree rendered in the case, and to pay costs, &c., as required by the rules in admiralty proceedings.

Wherefore defendant and claimant prays that the said interventions be dismissed with costs.

(Signed) THO. HUNTON,
*Proctor for Philip A. Work.*

143 THOMAS HUNTON, being sworn, states that he is the special agent of Philip A. Work herein and his proctor, and that said P. A. Work claims, and is or was, at the date of the filing of the libel herein, owner of one undivided fourth part of the st'r Lotawanna.

(Signed) THO. HUNTON.

Sworn to & subscribed before me this 4th Feb'uary, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

(Endorsed:) Let this libel of intervention be filed.
Feb'uary 4th, 1871.

(Signed) E. H. DURELL, *Judge.*

(Endorsed:) Service accepted.
N. Orleans, Feb'uary 6th, 1871.

(Signed) BENTINCK EGAN,
*Proctor.*

*Default.—From the minutes of Feb'uary 7th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

The delay allowed by law having expired, and no answer filed, after due monition, on motion of B. Egan, proctor for libellants:
144 It is ordered that all persons interested on the property seized be pronounced in contumacy and default, and the libel adjudged and taken pro confesso.

*Testimony for Boyd Wilmott & Co.—Filed Feb'uary 10th, 1871.*

J. D. COX ET ALS.
*vs.*
S'TR LOTAWANNA.

Testimony taken before K. Loew, U. S. commissioner, Feb'uary 10th, 1871.

Present: R. De Gray, B. Egan.

W. G. WILMOT, being duly sworn for Boyd Wilmot & Co., says: Receipt for 300 barrels of coal attached to, and made part of our intervention, is correct, and is for coal delivered, as therein stated, and at the prices therein specified. It has never been paid. The receipt is signed by B. B. Hotchkiss, who was then clerk of the st'r Lotawanna.

No cross-examination.

(Signed) W. J. WILMOT.

Sworn to & subscribed before me Feb'uary 10th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

145 *Judgment for libellants.—From the minutes of Feb'uary 13th, 1871.*

J. D. COX ET ALS.
*vs.*
ST'R LOTAWANNA. } No. 9642.

By reason of the default herein entered on the 7th instant, and of the law and the evidence—

It is, on motion of B. Egan, proctor for the libellants, ordered, adjudged, and decreed, that they do have and recover judgment against the st'm'r Lotawanna for the following sums, viz: J. D. Cox, $1,306; J. N. Geven, 674.28, with privilege upon the proceeds in court, for seamen's wages.

*Order: Rule to bond dismissed.—From minutes of Feb'y 15th, 1871.*

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

The rule taken by P. A. Work to set aside sale, and for leave to bond was called. Tho's Hunton for Work; Egan for libellants;
146 when, after hearing counsel, ordered that said application be refused with costs.

*Intervention of J. K. Bell.—Filed March 3d, 1871.*

J. D. COX ET ALS.
*vs.*
ST'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Jesse K. Bell, a resident of the city of New Orleans, against the proceeds of the steamboat Lotawanna, now in

the registry of this honorable court in the above cause, in a cause of contract, civil and maritime, alleges as follows:

I. That the steamboat Lotawanna, a vessel of more than 100 tons burden, was engaged in the year 1870 in making voyages between the ports of New Orleans and various ports and places on Red River.

II. That, in the months of Feb'uary, March, April, and May,
147 1870, the master of said boat, purchased from J. Sharp McDonald, at Baton Rouge, Louisiana, various quantities of coal, as fuel for said boat, to enable her to prosecute her said voyages, and in the month of July, 1870, employed Doughty & McHaffie, ship-carpenters in this city, to put extensive repairs on said boat to enable her to prosecute her said voyages, all of which will more fully appear by reference to the detailed bills annexed and made part hereof.

III. That, in the months of September and October, 1870, both the said J. Sharp McDonald, and the said Doughty & McHaffie brought suits against said boat, and caused her to be seized, when libellant became security on the release-bond given in the causes, and subsequently paid, on the claim of J. Sharp McDonald, the sum of five hundred dollars, being claim, interest, and costs; and on the claim of Doughty & McHaffie, the sum of seven hundred dollars, and was subrogated to all the rights and claims of said parties against said boat.

148 IV. That the said steamboat is now indebted to libellant in the full sum of two thousand two hundred dollars, being the amount paid by him on said two claims for fuel furnished to said boat, and repairs made on her, all of which will more fully appear by the bills annexed and made part hereof; and that libellant has been subrogated to all the rights, actions, and claim of said parties against said boat, or her proceeds.

V. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellant prays that this libel of intervention be filed, and that process, in due form of law, and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against said steamboat Lotawanna, or her proceeds; and that all persons claiming any interest therein may be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree the payment of the amount due libellants
139 as aforesaid, $2,200, with privilege and preference over all other creditors, and all costs of suit; and libellant prays for general relief.

(Signed) BENTINCK EGAN, *Proctor.*
( " ) J. K. BELL.

Sworn to & subscribed before me this 3d day of March, 1871.
(Signed) CHA'S CLAIBORNE,
*U. S. Comm'r.*

(Endorsed:) Let this intervention be filed.
March 3d, 1871.
(Signed) E. H. DURELL, *Judge.*

*Order: Cause rvferred to U. S. Commissioner Cohen.—From minutes of March 3d, 1871.*

J. D. COX ET ALS. }
*vs.* } No. 9642.
ST'R LOTAWANNA. }

On motion of B. Egan, proctor for libellants, and on suggesting to the court that the steamboat Lotawanna has been sold by an order issued from this honorable court in the above case; that her proceeds are now in the registry of the court and a large number of claims
150 have been filed against the same: Therefore, it is ordered by the court that this cause be referred to M. M. Cohen, esq., U. S. commissioner, to report upon a tableau of distribution and classify the various claims according to law; and that all parties have a right to take further evidence before said commissioner.

*Testimony favor Dowly and McKaffie, J. K. Bell, John Chaffe & Bro.—Filed March 3d, 1871.*

J. D. COX ET AL. }
*vs.* }
ST'M'R LOTAWANNA. }

Testimony for Doughty & McHaffie, taken before K. Loew, U. S. commissioner, March 3d, 1871.

Present: B. Egan, for Doughty and McHaffie, and J. P. Smith, on behalf of Randolph, Singleton & Browne, representing certain intervenors; R. De Gray. Mr. Hunton made his appearance and withdrew.

JESSIE MCHAFFIE, being first duly sworn, says:

Am a member of the firm of Doughty & McHaffie, ship-carpenters, in New Orleans.

151 (Being shown bill annexed to their intervention, says:)

It is correct*ly* in dates and amounts. It is for building a stage for the steamer Lotawanna. The price charged for it is $25, and is reasonable, just, and is still due.

(Signed) JESSIE MCHAFFIE.

Sworn to and subscribed before me this 3d March, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

On claim of Jesse K. Bell.

J. MCHAFFIE, sworn, says:

Member firm of Doughty and McHaffie. In July last I was employed by the steamer Lotawanna to make extensive repairs on her. My firm built her guard, repaired the wheel, buckheads, and various other repairs, i. e., cabin, steering, rigging, and generally giving her a thorough overhauling, so far as carpenter's work was concerned.

My bill for this work was $2,350.

Shortly after the work was done the boat paid me, on two dif-
152 ferent occasions, $700, leaving her indebted to us in the sum of $1,650. In September last I brought suit against the boat and

had her seized for this debt, which was a privilege debt of the boat. Mr. Jesse K. Bell went security on the bond given for her release. Subsequently Mr. Bell paid me $1,700, our claim and costs of suit, and we subrogated him to all our rights and privilege against the boat. I know that Mr. Bell's claim, so far as it is based upon this subrogation, is correct. The work was necessary for the boat, and she could not well go*t* without it. Credit was given to her, as she was engaged in commerce and navigation in the Mississippi River and tributaries.

The prices charged by us for the work were just and reasonable, and increased the value of the boat to the full amount of the work done by us.

(Signed) JESSE McHAFFIE.

Sworn to & subscribed before me March 3d, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

In suit No. 9664.

153 JOHN CHAFFE, being first duly sworn for John Chaffe and Bro., libellants, says:

(Being shown the bill annexed to libel, says:)

It is correct in dates and amounts. The total amount now due is $10,856.41, as per statement marked "A," and the further sum of $61.62, as per statement marked "B."

It is for money advanced by us to pay drafts given for materials and supplies furnished the steamer Lotawanna and repairs made on her, and also for freight shipped to or by me and not delivered, all of which is set forth in the bill; also for insurance-premiums paid by us for the boat for insurance on her. Our house is a commission-house in New Orleans. We have done a large part of the business of the boat. The item of 15th January, 1870—23 sacks salt not delivered and shipped by us—is correct; it is for $52.90. The salt was shipped by us and not delivered. Item 20 January—20 sacks corn, 10 sacks oats, not delivered, $78.17—is also correct. Item Feb'uary 23d—due-bill for
154 agency commission, $970.99—is correct, (commission as agents on consignments to and from us.) Item March 15th, for $14.75, is correct; it was for freight-bill paid by us to the boat and not due. Item 1st May, $49.42, is also correct. Item 25th May, value of 5 b. cotton shipped to us and not delivered, is correct; amount, $507.74. Item July 1st, $49.47, is correct; it is for endorsement due and paid by us. No funds of the boat in hands to meet the bill. Item 26th October, $6.86—short freight not delivered—is correct. Item 30th November, $75 paid for caulking done in October, is also correct. Item 23d Jan'y, 1871, $705.15, balance interest, is also correct.

The whole bill is correct, altho' particular items, which speak for themselves. *The* allowed interest to the boat, and charged her interest.

Our claim against her now is, as stated above, $10,918.03. The details of our bill for short freight will be found in the 4 bills annexed to libel, and marked, respectively, 1, 2, 3, & 4.

Cross-examined:

155 All the moneys advanced by us, and stated in the bill, was for the use of the boat. It was so stated to us by the officers of the boat.

The amount paid to Joyce was to pay an account due him by the Lotawanna for money advanced by him.

(Signed) JOHN CHAFFE.

Sworn to & subscribed before me, March 3d, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

*Intervention of Goodwill & Webb.—Filed March 7th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the State of Louisiana:

The libel of Goodwill and Webb, merchants, residing and doing business at Minden, La., against the proceeds of the steamer Lotawanna, now in the registry of this honorable court, and against all persons intervening for their interest therein, in a cause of contract, civil
156 and maritime, allege as follows:

I. That the steamboat Lotawanna is justly and truly indebted to libellants in the full sum of one hundred & forty-seven $\frac{88}{100}$ dollars ($147.88) for freight shipped in New Orleans, and consigned to libellants, and which the said boat failed and neglected to deliver to them; all of which is more fully set forth and described in the bill annexed to and made part of this libel.

II. That, at the time said freight was shipped on said boat, she was engaged in commerce and navigation between the port of New Orleans and Minden, Louisiana.

III. That said boat has been libelled in the above cause, and sold by virtue of process issued from this honorable court in said cause, and her proceeds are now in the registry of this honorable court.

IV. That all and singular the premises are true.

Wherefore libellants pray that this libel of intervention be filed,
157 and that process, in due form of law and according to the course of this honorable court in causes of admiralty and maritime jurisdiction, may issue against the said steamboat, or her proceeds; and that all persons claiming any interest in the same may be cited to answer the matters aforesaid, and, after due proceedings had, that this honorable court will be pleased to decree in favor of libellants for the payment of their aforesaid claim, $147.88, with privilege on the proceeds of said boat, and all costs of suit; and libellants pray for all general and equitable relief.

(Signed) BENTINCK EGAN, *Proctor.*

BENTINCK EGAN, being sworn, says that he is the attorney of Goodwill and Webb, intervenors; that they are now absent from the city, and that all the facts and allegations contained in the foregoing libel are true and correct, to the best of his knowledge and belief.

(Signed) BENTINCK EGAN.

Sworn to & subscribed before me this 7th March, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

158 *Bill annexed to intervention of Goodwill & Webb.*

*St'r Lotawana to Goodwill & Webb.*

Per bill of goods..... $147 88

*Intervention of J. Sharp McDonald.—Filed March 18th*, 1871.

J. D. COX ET ALS. vs. ST'R LOTAWANNA. } No.

In the United States district court for the district of Louisiana.

The libel of intervention of J. Sharp McDonald, a resident of Pittsburg, in the State of Pennsylvania, against the steamboat Lotawanna or her proceeds, now in the registry of this honorable court, against all persons intervening for their interest therein, in a cause of contract, civil and maritime, alleges as follows:

First. That the steamer Lotawanna, whereof Joseph Morgan was master, having landed at the port of Baton Rouge, in this State, on the 24th day of Feb'uary, on the 11th March, and on the 3d of
159 April, 1870, whilst engaged in making voyages between the port of New Orleans and various points and places in Red River, and bringing freight and passengers for hire, the master of said steamboat purchased from your libellant, for the necessary use of said steamboat, five hundred and forty boxes of coal, at the above dates, he agreeing to pay to your libellants sixty cents for each and every box, making the sum of three hundred and thirty dollars, as evidence of which the clerk of said steamboat made and subscribed three due-bills, which are now in the hands of your libellant, and unpaid.

Second. That the said coal thus sold and delivered by libellant to said steamboat "Lotawanna," as above set forth, absolutely and indispensably necessary to enable said boat to prosecute the several voyages on which she was then bent; that the prices charged for the same is just and reasonable; that the credit therefore was given to the boat, and that they could not have been procured on the credit of her owners.

Third. That the said steamer Lotawanna has been sold by virtue of an order rendered by this honorable court in the above cause.

160 Fourth. That all and singular the premises are true and within the jurisdiction of this honorable court.

Wherefore libellant prays that process in due form of law, and according to the course of this honorable court in *courts* of admiralty and maritime jurisdiction, may issue against the said steamer Lotawanna or her proceeds; that this libel of intervention be filed, and that all persons claiming an interest in said boat or her proceeds may be cited to answer the matters aforesaid, and, after due proceedings, that this honorable court will be pleased to decree the payment of libellant's aforesaid claim, with privilege and preference, out of the proceeds of said boat now in the registry of this honorable court, with all costs of suit; and libellant prays for general relief.

(Signed) TRIST & OLIVER,
*Proctors for J. S. McDonald.*

V. OLIVIER, jr., sworn, says he is one of the proctors for the intervenor, and that the facts set forth in the above intervention are true,
161 to the best of his knowledge and belief; and further, that the intervenor is an absentee, and resident of Pittsburg, State of Pennsylvania.

(Signed) VICTOR OLIVIER, JR.

Sworn to & subscribed before me this 18th March, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

Let this libel of intervention be filed, and let the commissioner pass upon said claim at the same time he passes upon the others.

March 18th, 1871.

(Signed) E. H. DURELL, *Judge.*

*Intervention of Tho's Only & Co.—Filed March 31st, 1871.*

In admiralty.

To the judge of the district court of the United States for the district of Louisiana:

The petition of the firm of Tho's Onley & Co., of the city of New Orleans, composed of Tho's Onley, C. Strokes, J. Heirman & G. Gamble, respectfully represents—

That the steamboat Lotawanna and owners are justly and
162 truly indebted to them in the sum of $56.37, for the services rendered in the bill of items hereto annexed and made part hereof.

Petitioner further shows that said steamboat Lotawanna has been sold by the marshal of this honorable court, in the suit of Cox et als. vs. said steamboat, and that the proceeds of said sale are now in the registry of this honorable court, and that they, the petitioners, have the first lien and privilege upon the same.

Wherefore petitioner prays that this their petition may be filed and all parties duly notified thereof, and that, after due proceedings, they have judgment with first lien and privilege upon the proceeds of the sale of said steamboat, costs of suit, and all general relief, &c.

Let this intervention be filed and be passed upon by the commissioner at the same time he passes on the others.

March 31st, 1871.

(Signed) E. H. DURELL, *Judge.*

*Bill annexed to intervention of Tho's Only & Co.*

163 NEW ORLEANS *Dec. 29th*, 1870.

*St'r Lotawanna to Tho's Onley & Co. Dr.*

| | |
|---|---|
| Bill rendered..... | $56 37 |

*Testimony on claim of Onley.—Filed April 13th, 1871.*

J. D. COX ET ALS. vs. ST'R LOTAWANNA. } No. 9642.

Testimony taken before K. Loew, U. S. commissioner, this 13th April, 1871.

Present, B. Egan & Richard De Gray.

On claim of G. A. Gamble, (originally Tho's Onley & Co.)

G. A. GAMBLE, being first duly sworn, says:

The bill annexed to intervention is correct, and the services rendered as therein stated. The bill is approved by the captain & mate.

There is now due me, $56.37.

The prices are the usual prices; sometimes they are larger and sometime' less.

(Signed) G. A. GAMBLE.

Sworn to & subscribed before me, April 13th, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

164 *Intervention of Christian & Hyatt.—Filed May 2d, 1871.*

J. D. COX ET AL., vs. ST'R LOTAWANNA }

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of intervention of Christian & Hyatt, doing business in the city of New Orleans as booksellers and stationers, against the steamer Lotawanna, whereof late was master, now lying in the port of New Orleans, and under seizure in the above cause, and against all persons intervening therein in a cause of contract, civil and maritime, alleges as follows:

I. That the steamer Lotawanna is truly and justly indebted to your libellants in the full sum of fifty $\frac{50}{100}$ dollars for stationery, &c., sold and delivered by them to said boat in the months of November and December, 1870. All of which will more fully appear by reference to the detail-bill annexed and made part hereof.

II. That said stationery, &c., was used on said boat; and the
165 prices charged for the same are just and reasonable, and said boat was engaged in commerce and navigation.

III. That has been seized and sold by virtue of admiralty process issued from this honorable court in the above cause.

IV. That all and singular the premises are true.

Wherefore libellants pray that this libel of intervention may be filed, and, after due and legal proceedings had, that this honorable court will be pleased to decree the payment of libellants' aforesaid claim and costs out of the proceeds of sale of said steamer Lotawanna; and libellants pray for general relief.

(Signed) BENTINCK EGAN,
*Proctor.*

Let this intervention be filed and passed upon by the commissioner with the other claims.

May 2d, 1871.

(Signed) E. H. DURELL, *Judge.*

*Bill annexed to intervention of Christian & Hyatt.*

NEW ORLEANS, *March* 19, 1871.

*St'r Lotawanna to Christian & Hyatt, Dr.*

As per bill rendered ..... $50 50

166 Approved.

FER'D V. CELLOS, *Clerk.*

*Report of M. M. Cohen, commissioner.—Filed May 4th,* 1871.

J. D. COX ET ALS. *vs.* ST'R LOTAWANNA. } No. 9642.

United States district court district of Louisiana.

The report of M. M. Cohen, commissioner, respectfully shows that, on the 3d day of March, 1871, the following order was made by this hon. court:

"On motion of B. Egan, proctor for libellants, and on suggesting to the court that the steamboat Lotawanna has been sold by an order issued from this honorable court in the above cause; that her proceeds are now in the registry of the court, and a large number of claims have been filed against the same:

"Therefore it is ordered by the court that this cause be referred to M. M. Cohen, esq., United States commissioner, to report upon a tableaux of distribution and classify the various claims according to law; and that all parties have a right to take further evidence before said
167 commissioner, and that all cases against the steamer Lotawanna, or her proceeds, be consolidated."

That upon receiving said order he fixed the examination for Tuesday, 7th March, 1871, at 3 o'clock p. m., and gave notice thereof to Randolph, Singleton & Browne, B. Egan, Thomas Hunton, E. D. Craig, G. S. Lacey, and R. De Gray, esq'r's, and clerk of the United States district court, and United States marshal.

That at the time and place aforesaid were present: B. Egan, E. D. Craig, R. De Gray, and J. P. Smith, esq'r's, (the latter representing Randolph, Singleton, and Browne.)

Joseph Morgan being produced, was examined on the claim of Goodwill & Webb, and the examination was then adjourned to 1st March, '71, at 6½ o'clock p. m.

At which time the examination was resumed. Present: E. B. Craig, Tho's Hunton, B. Egan, and R. De Gray, esq'r's.

Jesse K. Bell produced and examined on his individual claim of Kennett & Bell.

168 The examination was then adjourned to We'nesday, 15th March, at 6½ p. m.

At said time B. Egan and Thomas Hunton, esq'r's, being present, Charles Lamaitre and John Huey, witnesses on claim of Kennett & Bell, being produced, were examined.

The examination was then continued to Monday, 20th March, at 6½ p. m.

Pursuant to adjournment the examination was resumed. Present: Grover, esq., representing Mr. Tho's Hunton, and B. Egan, and V. Olivier, j'r., esq'r's.

The examination of John Huey, witness for Kennett & Bell, was resumed. Present: B. Egan and Tho's Huntons, esq'r's.

John Morgan being produced, was examined on the claim of Kennett & Bell. Then adjourned to 23d March, at 6½ p. m.

At said time the examination was resumed. Present: B. Egan, esq'r'. There being no witnesses present, the examination was adjourned to Monday, March 27th, at 6½ o'clock.

MONDAY, *March 27th*, 1871.—Present, B. Egan, esq.

169 In compliance with a subpœna duces tecum, taken on Kennett and Bell and returnable this day, Mr. Egan, proctor for Kennett & Bell, produced four drafts.

There being no witnesses present the examination was then adjourned to March 30th, at 6½ o'clock.

And on Thursday, March 30th, the examination was resumed. Mr. Egan, proctor for John Chaffe and Bro., offered in evidence bill of lading from steamer Lotawanna.

Then adjourned to Saturday, April 1st, 1871, at 6½ p. m.

And on Saturday, April 1st, there being no witnesses present, the examination stood adjourned.

And on the following Monday, April 3d, I issued notices for argument, which were served on Randolph, Singleton and Browne, R. De Gray, E. D. Craig, G. S. Lacey, and Tho's Hunton, esq'r's.

Since Tuesday, 7th March, 1871, this cause has been before me for testimony and argument upon the question how the amount in court should be distributed to the various libellants and intervening libellants.

There were taken before me 58 pages of testimony, and I have
170 examine' the evidence taken before the case was referred to me.

On the 18th March, (11 days after the first meeting on the reference,) there was filed the intervention of McDonald; and on the 31st March, '71, (24 days after the first meeting before me,) was filed the intervention of Tho's Onley & Co., and the testimony on the bill of Onley & Co. was not filed until 13th April, 1871.

The testimony and arguments before me have not enabled me to decide all the questions raised before me, and I must be content to leave to this honorable court the cutting of the gordian knot which I cannot untie.

Considering, therefore, that by the enrollment before me it is establish' that New Orleans is the home-port of the Lotawanna, and that none of the creditors for repairs and materials have the right to libel the Lotawanna in this, her home-port, I proceed' to distribute the proceeds among three classes of creditors, as follows;

1st. The costs in full.

2d. The wages in full.

3d. Supplies, materials, labor, &c., pro rata.

171 And, first, the costs—

| | | |
|---|---|---|
| The proceeds are | | $10,500 00 |
| The clerk of the court | $230 47 | |
| Registrar | 105 00 | |
| | | $335 47 |
| To the marshal of this district, his costs from Dec. 15th, 1870 | $256 00 | |
| Ditto from 15th Dec., 1870, to 28 Feb'y, 1871 | 82 00 | |
| His disbursements | 151 00 | |
| | | $489 00 |
| Car'ied over | | $824 47 |
| Clerk and marshal as aforesaid | | $824 47 |
| M. M. Cohen, commissioner, for notices and copy notices, and serving notices and services in this case and for this report | | 250 00 |
| B. Egan, esq., proctor, fee in first libel filed | | 20 00 |
| | | $1,094 47 |
| From the amount in court, viz | | $10,500 00 |
| Deduct the foregoing costs | | 1,094 47 |
| Will leave for further distribution | | $9,405 53 |

Second-class, as follows:

Wages—

| | |
|---|---|
| 1. J. N. Geren, pilot | $679 00 |
| 2. J. D. Cox, do. | 1,316 00 |
| 3. Tho's Allen, mate | 303 60 |
| 4. Ch's Miller, watchman | 12 50 |
| 5. Jno. Hepting, deck-sweeper | 90 00 |
| 172 6. Ja's Hailey, fireman | 23 25 |
| 7. Tho's Chapman, do. | 25 00 |
| 8. C. Yerger, do. | 25 00 |
| 9. E. Ellisworth, do. | 23 25 |
| | $2,497 60 |
| 9. Fo'w'd | $2,497 60 |
| 10. D. Sewill, deck-hand | 24 00 |
| 11. Tho's Ford, do. | 24 00 |
| 12. F. V. Cellos, clerk of boat | 83 87 |
| | $2,629 47 |

From the amount left for distribution after deducting costs and disbursements, viz:

| | |
|---|---|
| From | $9,405 53 |
| Deduct for wages | 2,629 47 |
| Will leave for distribution to the 3d class, viz: | $6,776 06 |

Supplies, materials, labor, &c., the claims of which class are as follows:

| | | |
|---|---|---|
| 1. | Kennett & Bell, stores, &c. | 9,848 42 |
| 2. | Jesse K. Bell, money loaned | 2,200 00 |
| 3. | Lagan & Mackison, supplies | 484 40 |
| 4. | Boyd, Wilmot & Co., coal | 195 00 |
| 5. | David Hughes, labor | 390 82 |
| 6. | Tho's Onley & Co., labor | 56 37 |
| 7. | Goodwill & Webb, loss of freight | 147 88 |
| 8. | City of New Orleans, wharfage | 22 30 |
| 9. | R. J. Soules, money loaned | 312 20 |
| | Carried over | $13,657 19 |
| | | $13,657 19 |
| 10. | Ruth & Larkin, boilermakers | 170 00 |
| 11. | Moran, Noble & Woods, stores and money loaned | 684 01 |
| 173 12. | Canal-street Ferry Co., meritorious voyage | 100 00 |
| 13. | Fanny Stroop, vegetables | 226 15 |
| 14. | Wilson Fagan & Co., meat | 3,091 20 |
| 15. | D. C. McCan & Son, iron-founders | 762 39 |
| 16. | L. Q. C. Puckett, captain | 378 95 |
| 17. | E. Conery & Son, cash to pay watchman | 75 00 |
| 18. | McCloskey, Bigley & Co., coal | 809 75 |
| 19. | J. M. Peterson, coal | 467 50 |
| 20. | J. S. McDonald, do. | 330 00 |
| 21. | Jno. Callow, blacksmith | 41 45 |
| 22. | Jno. Hennessey, labor & materials | 128 42 |
| 23. | Nich. Theodore " " | 225 00 |
| 24. | S. H. Gatwood, lumber | 296 00 |
| 25. | M. J. Taylor, copper work | 110 00 |
| 26. | Moffet & Brown, lumber | 42 50 |
| 27. | W'm H. Reynolds, foundry work | 100 00 |
| 28. | Crescent-City Ice Co | 30 06 |
| 29. | George Coats, locksmith | 20 00 |
| 30. | J. D. Pigniolo, fruit | 8 50 |
| 31. | England, Fallon & Co., game | 40 50 |
| | | $21,794 51 |
| | | 21,794 51 |
| 32. | Bradey & Palmer, lumber | 38 05 |
| 33. | Doughty & McHaffie, labor, &c | 25 00 |
| 34. | Jno. Chaffe & Bro., cash advance' and short freight | 10,896 56 |
| 35. | Christian & Hyatt, stationery | 50 50 |
| | Amount of claims, 3rd class | $32,804 62 |

174 *Distribution.*

| | Amount of claim. | At 20½ per cent. pro-rata dividend. |
|---|---|---|
| 1. Kennett & Bell | $9,848 42 | 2,018 92 6/10 |
| 2. Jesse K. Bell | 2,200 00 | 451 00 |
| 3. Lagan & Mackison | 448 40 | 99 30¼ |
| 4. Boyd, Wilmot & Co | 195 00 | 39 97½ |
| 5. David Hughes | 390 82 | 80 11¾ |
| 6. Tho's Onley & Co | 56 37 | 11 55 |
| 7. Goodwill, Webb & Co | 147 88 | 30 31½ |
| 8. City of New Orleans | 22 30 | 4 57½ |
| 9. R. J. Soules | 312 00 | 63 96 |
| 10. Ruth & Larkin | 170 00 | 34 85 |
| 11. Moran, Noble & Woods | 684 01 | 140 22¼ |
| 12. Canal-st. Ferry Co | 100 00 | 20 50 |
| 13. Fanny Stroop | 226 15 | 46 36 |
| 14. Wilson, Fagan & Co | 3,091 20 | 633 68 |
| 15. D. C. McCan & Son | 762 39 | 156 28 |
| 16. L. Q. C. Puckett | 378 95 | 77 68 |
| 17. E. Conery & Son | 75 00 | 15 37½ |
| 18. McCloskey, Bigley & Co | 809 75 | 165 99 |
| 19. J. M. Peterson | 467 50 | 95 83 |
| 20. J. S. McDonald | 330 00 | 67 65 |
| 21. John Callow | 41 45 | 8 49¾ |
| 22. John Hennessey | 128 42 | 26 32 |
| 23. N. Theodore | 225 00 | 46 12½ |
| 24. M. J. Taylor | 110 00 | 22 55 |
| 25. Moffett & Brown | 42 50 | 8 71 |
| 26. Cres. City Ice Co | 30 00 | 6 15 |
| 27. W'm A. Reynolds | 100 00 | 20 50 |
| 28. Geo. Coals | 20 00 | 4 10 |
| 29. J. D. Pignolio | 8 50 | 1 74 |
| 30. England, Fallon & Co | 40 50 | 8 30 |
| 31. Brady & Palmer | 38 05 | 7 80 |
| 175 Doughty & McHaffie | 25 00 | 5 12 |
| Jno. Chaffe & Bro | 10,896 56 | 2,233 79 |
| Christian & Hyatt | 50 50 | 10 35 |
| | $32,804 62 | $6,724 93 |

Which pro-rata amount, if deducted from the amount to be distributed, as follows:

| | |
|---|---|
| From | $6,776 06 |
| Deduct as above | $6,724 13 |
| Will leave for contingent costs of clerk and marshal | $51 13 |

Respectfully submitted.
(Signed)

M. M. COHEN,
*Commissioner.*

*Rule to homologate report.—From the minutes of May 4th, 1871.*

J. D. Cox et als. } No. 9642.
*vs.*
St'r Lotawanna. }

Ordered, that all parties interested show cause on 8th inst., at 11 a. m., why the commissioner's report this day filed be not approved and homologated.

*Exception & opposition to report.—Filed May 8th, 1871.*

J. D. Cox et als. } No.
*vs.*
St'r Lotawana. }

176 United States district court, district of Louisiana.

And now comes Boyd, Wilmot & Co., Ruth & Larkin, and Tho's Onley & Co., and except to the report of the commissioner, filed herein, on the following grounds, to wit:

1st. That they except to the fee of the commissioner, charged therein, to wit, $250.00, because the same is excessive and illegal; and on the further ground that the report for which said fee is charged decides or settles nothing, but leaves the whole matter to be as fully gone into the court as if no had been made, said report being, in substance, nothing but a copy or orders of this honorable court and minutes of proceedings had before said commissioner.

3d. They except to the report of said commissioner on the further ground that said report admits the claims of all parties after the payment of the crew, to the same rank, whether said claims had any connection with the steamboat Lotawanna .

4th. They except to the report of the commissioner on the further ground that said report admits individual debts to be paid out of
177 the proceeds of the sale of said steamboat, which was partnership property.

(Signed) R. De GRAY, *Proctor.*

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*Exception to report.—Filed May 8th, 1871.*

J. D. Cox et al., Kennett & Bell & others, *vs.* The St'r Lotawanna. } The st'r Lotawanna.

United States district court, in admiralty.

And now comes Kennett & Bell and except to the report of the master herein, and object to a distribution of the proceeds of sale of the steamer according to the said report, recom'ends the distribution of that portion of the proeeeds not covered by admiralty liens amongst creditors of the owners of said steamer other than these appearers.

And these libellants object to any payment to or distribution among

the general creditors of the said owners, other than these libellants, of the funds in the hands of the registrar, not subject to admiralty
178 liens, because the same have been garnisheed and attached by the said Kennett & Bell, in the hands of the registrar, by process issuing from the 6th district court for the parish of Orleans; and because these libellants have a lien upon the said funds superior to the other general creditors.

Wherefore, libellants pray that the said funds be ordered to be turned over by the registrar to the sheriff of the parish of Orleans, subject to the order of the sixth district court.

*Exception to report of commissioner.—Filed May 8th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

Now comes intervenors in the above cause into the court and excepts to the report of M. M. Cohen, esq., United States commissioner, herein filed, in the following particulars:

1st. They except to and oppose the claim of Kennett & Bell, allowed by said report as third-class creditors for the smm of $9,848.42, on
179 the ground that said Kennett & Bell claim but $5,763.33 of said account as for stores, and the balance, $4,055.10, for orders; which latter portion of the claim is clearly not a maritime lien and privilege against the steamer Lotawanna or her proceeds, and consequently could not legally be placed in the same class as intervenors who were creditors for supplies and materials furnished to said boat, and have a maritime lien and hypothecation on said vessel; but the testimony shows that they, Kennett & Bell, received from the boat at various dates large amounts of money, amounting in all to the sum of $36,364.73, and of this sum they appear to have appropriated $12,474.99 to pay the individual acceptances they had given for P. A. Work and Joseph Morgan on drafts given by those parties for the purchase-price of their respective interests in the steamer Lotawanna. This money was partnership property, and ought to have been applied to the payment of partnership debts and not the individual debts of the owners, who appeared to have owned the boat in the proportion of $\frac{1}{4}$ to Work and $\frac{3}{4}$ to Morgan; and had this money
180 been applied to the payment of the partnership debt due by the boat to them, it would have entirely extinguished their present claim and left them indebted to the steamer Lotawanna and owners in the sum of $2,626.57, but they would still have their claim against the owners for those drafts which they pay for them. For those reasons intervenors ask that the claim of Kennett & Bell against the steamer Lotawanna or her proceeds be entirely rejected.

II. They except to and oppose the claim of John Kouns as allowed by the report, on the ground that $10 or $15 would be ample compensation for the services the evidence shows was rendered in this case.

Wherefore they pray that this exception be maintained, and the claim of Kennett & Bell entirely rejected and struck from said report, and the claim of John Kouns reduced to $10. They pray for general relief.

(Signed) BENTINCK EGAN,
*Pro'r for Int'er.*

*Opposition to report.—Filed May 8th, 1871.*

181 United States district court.

J. D. COX ET AL. vs. ST'M'R LOTAWANNA. } No. 9642.

Intervention of Canal-St. Ferry Co.

Now comes the Canal-Street Ferry Company, intervening libellants herein, and oppose the report of M. M. Cohen, commissioner, filed herein, on the ground that they are placed in the creditors to share pro rata instead of first-privilege creditors to which position they are entitled, as will appear from the evidence in their behalf herein taken.

Wherefore they pray that said report be amended and their names placed therein as first-privilege creditors, after costs of proceedings and commissioner's fees; and, that so amended, said report be homologated and distribution made.

(Signed) JNO. P. SMITH,
*Proctor for Intervenor.*

*Hearing & continuance on rule.—From minutes of May 8th, 1871.*

J. D. COX ET AL. vs. ST'R LOTAWANNA. } No. 9642.

182 The rule to homologate the report came up—B. Egan, R. de Gray, Thos. Hunton, J. P. Smith for libellants & intervenors—When after hearing the exceptions and oppositions the rule is continued till the 11th inst. at 11 a. m.

*Order to pay certain claims.—From the minutes of 8th May, 1871.*

J. D. COX ET AL. vs. ST'R LOTAWANNA. } No. 9642.

T. A. ALLEN vs. SAME. } No. 9643.

On motion of E. D. Craig, proctor for Allen, a libellant in the above cases, and on showing to the court that the commissioner has divided the claims unto three classes: 1st. costs; 2d. seaman's wages; and 3d. supplies, &c.; and that the 1st, 2d class are privileged claims, and that the amount on deposit in the registry in the above cases is largely in excess of the first and second claims of privilege: It is ordered
183 by the court that the seaman's wages be paid forthwith; and that the costs of court, so far as unopposed, be paid also.

*Garnishee process from sixth district court.—Filed May 8th, 1871.*

To the honorable the judge of the sixth district court for the parish of Orleans.

The petition of Alfred Q. Kennett, and Jesse K. Bell, who composed the late partnership of Kennett & Bell, respectfully shows: That Joseph

Morgan and Philip A. Work, who are or were lately the owners of the steamboat Lotawanna, are justly indebted to petitioners in the sum of nine thousand eight hundred and forty-eight $\frac{47}{100}$ dollars, for goods, wares, and merchandise sold to them and furnished for the use of their said boat as will more fully appear from the account annexed as part hereof.

Petitioners pray for a writ of attachment in consideration of the bond and affidavit annexed, that Philip A. Work and Joseph Morgan be cited to answer this petition; and that Charles Claiborne, clerk and register of the United States district court be cited to answer the
184 interrogatories annexed, and, after due proceedings, that judgment be rendered in favor of petitioner for the sum of $9,848.42 with interest from judicial demand against defendants with privilege on the property attached, and for general relief.

(Signed) THOS. HUNTON,
*Att'y for Plaintiff.*

*Interrogatories to be answered under oath and within the legal delay by Charles Claiborne, clerk and registrar of the United States district court.*

1° Have you not in your hands or under your control the sum of $10,500, the proceeds of sale of the steamer Lotawanna belonging to the defendants?

2° Is there not a sufficiency in your hands or under your control of the said proceeds to satisfy and pay plaintiff's demand after paying all the liens in admiralty allowed by the U. S. district court?

3d. Is there not in your hands the amount of $7,000 after the allowance of all the claim in the U. S. dist. court by the judgment
185 against the proceeds of sale of steamboat Lottawanna?

*Affidavit.*

STATE OF LOUISIANA,
*City of New Orleans:*

ALFRED Q. KENNETT, being sworn, states:

That he was a partner of the late commercial partnership of Kennett & Bell. That Phllip A. Work and Joseph Morgan are justly indebted in solido unto petitioners, Kennett & Bell, in the sum of nine thousand, eight hundred and forty-eight $\frac{42}{100}$ dollars. Affiant further states that said Work and Joseph Morgan have disposed of their rights and property, or part thereof, with interest, to give some of their creditors an unfair advantage and preference, and that they have converted their property into money, or evidences of debt, with interest, to place it beyond the reach of their creditors.

(Signed) ALFRED Q. KENNETT.

Sworn to & subscribed this 6th day of Feb'uary, 1871, before me.
(Signed) JOHN P. MONTANAT,
*3rd J. Peace.*

*Order:*

Let a writ of attachment issue as herein prayed for, on pe-
136 tioner's giving bond, with good and solvent security, conditioned as the law directs.

New Orleans, May 6th, 1871.

(Signed) W. H. COOLEY, *Judge.*

*Order:*

Let Charles Claiborne, clerk and register of the United States district court, be made garnishee as herein prayed for, and ordered to answer under oath, and in writing, within the legal delay, the interogatories herein to him propounded.

New Orleans, May 8th, 1871.

(Signed) W. H. COOLEY, *Judge.*

A true copy.

New Orleans, May 18th, 1871.

(Signed) W. WALSH, *D'y Clerk.*

NEW ORLEANS, *May 8th*, 1871.

State of Louisiana, sheriff's office, parish of Orleans.

KENNETT & BELL
*vs.*
J. MORGAN & ALS. } No. 2490.

In the sixth district court for the parish of Orleans.

To Ch's Claiborne, clerk and register of the U. S. district court:

187 Please take notice that, by virtue of a writ of attachment issued in the above-mentioned suit, I seize, in your hands, all the goods, chattels, land, tenements, rights, and credits, moneys, effects, bills of exchange, promissory notes, or property of any kind which you may now or hereafter have, in your possession or under your control, belonging to the defendants, J. Morgan et al., which you will hand over to me.

(Signed) ROB. SWAIN,
*D'y Sheriff.*

State of Louisiana, six' district court for the parish of Orleans, in the city of New Orleans.

KENNETT & BELL,
*vs.*
J. MORGAN ET. AL. } No. 2490.

Mr. Chas. Claiborne, clerk and register of the U. S. district court, garnishee:

You are hereby cited to declare, on oath, what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to said defendant; and, also, to answer in

188 writing, under oath, the interrogatories annexed to the petition, of which a copy accompanies this citation, and deliver your answer to the same, in the office of the clerk of the sixth district court for the parish of Orleans, within ten days after the service hereof; otherwise judgment will be entered against you for the amount claimed by the plaintiff, with interest and costs.

Witness, the honorable W. H. Cooley, judge of the said court, the 8th day of May, in the year of our Lord 1871.

(Signed) W. WALSH, *D'y Clerk.*

*Order dismissing oppositions, and report approved.*

J. D. COX ET AL'S
*vs.*
THE ST'R LOTAWANNA. } No. 9642.

The exceptions and oppositions to the commissioners' report, came up. Present: B. Egan, E. C. Billings for Tho's Hunton, J. P. Smith M. M. Cohen; and, after hearing the argument, it is ordered,
189 that all oppositions be dismissed, and said report approved and homologated and made the judgment of the court.

*Rule to dismiss garnishee process.—From the minutes of May 11th, 1871.*

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

On motion of B. Egan, proctor for Wilson, Fagan & Co, and other intervenors,
It is ordered that Kennett & Bell show cause, on the 16th instant, at 11 a. m., why the garnishment, lodged into the hands of the clerk and register of this court, under the attachment issued out of the 6th district court of New Orleans, at their suit vs. Jos. Morgan and P. A. Work, should not be set aside and dismissed, and the proceeds of the steamer Lotawanna, now in the registry of this court, distributed agreeably to the decree of the court, on the grounds filed.

*Order revoking decree.—From the minutes of May 12th, 1871.*

J. D. COX ET AL'S
*vs.*
ST'R LOTAWANNA. } No. 9642.

190 Ordered that the decree, herein made on yesterday, dismissing all oppositions, and approving the commissioner's report, be set aside, and said oppositions re-instated except the one made to the fee of the commissioner for $250, which opposition shall stand rejected, and said fee allowed and paid from the fund.
It is further ordered that the cause be referred back to said commissioner for further proceedings and report, he taking due cognizance of the opposition.

*Order.—Reference on exception of P. A. Work.—From the minutes of May 13th, 1871.*

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

On motion of Tho's Hunton, proctor for P. A. Work, & on suggesting to the court that the report of Mr. Commissioner Cohen, shows on its face an allowance for a large amount of claims which are stated by the commissioner as not bearing admiralty liens; and as the report further shows that the commissioner is doubtful as to the
191 propriety of allowing these claims, it is ordered that said com-

missioner to whom the cause has already been referred back, do make an amended and supplemental report on the exceptions filed by this defendant on 11th instant.

*Supplemental & amended report.—Filed June 4th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

The supplemental report of M. M. Cohen, comm'r, respectfully shows that on the 12th day of May, 1871, the following order was made by this hon. court:

"Ordered that the decree herein made on yesterday, dismissing all oppositions and approving the commissioner's report, be set aside, and said oppositions re-instated except the one made to the fee of the commissioner for $250, which opposition shall stand rejected, and said fee allowed and paid from the fund.

"It is further ordered that the cause be referred back to said
192 commissioner for further proceedings and report, he taking due cognizance of the oppositions."

And, on the 13th May, 1871, the following supplemental order was made:

"On motion of Tho's Hunton, proctor for P. A. Work, and on suggesting to the court that the report of Mr. Cohen shows, on its face, an allowance for a large amount of claims which are stated by the commissioner as not bearing admiralty liens; and as the report further shows that the commissioner is doubtful as the propriety of allowing those claims,

"It is ordered that said commissioner, to whom the cause has already been referred back, do make an amended and supplemental report on the exceptions filed by this defendant on the 11th instant."

The commissioner has carefully examined the oppositions and exceptions, and reports as follows:

The claims of all parties holding admiralty liens on the boat at the time of the seizure, have been paid.

The Lotawanna was registered and enrolled in the port of New
192 Orleans, and as belonging to this port. The enrollment shows that the owners resided in New Orleans, and the proof is that the owners, Work and Morgan, both resided in the State of Louisiana; such being the case, under the well-established rules of admiralty, none of the intervenors, material-men, and furnishers of supplies, &c., had an admiralty lien on the boat itself.

The presumption in such a case is, that credit for supplies, materials, &c., were furnished upon the personal credit of the owners. But it is contended that the intervenors have the right to be paid out of the proceeds of sale now in the registry of the court.

One of the owners, P. A. Work, objects to this application of the proceeds in court, on the ground that he is a part owner of one undivided fourth part of every part and parcel of these proceeds; and that the admiralty court is without jurisdiction to decree payment of these claims as admiralty liens, because the owners were residents and citizens of New Orleans at the time the cause of action of the intervenors arose.

He further excepts to the several interventions filed in this
194 case, on the ground that the intervenors did not give a stipulation to pay all costs, damages, and expenses as shall be

awarded by the court upon the final decree, which stipulation is required by the 34th rule in admiralty prescribed by the Supreme Court.

Kennett & Bell also except to the report heretofore made, and object to this distribution of the proceeds among the general creditors, on the ground that they had attached in the hands of the register the remaining proceeds of sale, after payment of the admiralty liens on the boat, by process issuing from the sixth district court for the parish of Orleans.

With reference to the exception made by one of the owners, that no stipulation to pay costs, damages, and expenses was given by the intervenors, the commissioner is of opinion, in view of the 34th rule in admiralty, that no intervention should be considered or allowed where the intervenor has not complied with the rule; and the commissioner therefore rejects the interventions of Kennett & Bell, Jesse K. Bell, Tho's Onley & Co., Goodwell & Webb, City of New Orleans,
195 R. J. Soules, Ruth & Larkin, E. Conery & Son, J. S. McDonald, Jno. Callow, N. Theodore, S. N. Gatwood, Crescent City Ice Co., George Coats, J. D. Pigniolo, John Chaffe & Bro., and Christian & Hyatt.

Since this cause was referred back to the commissioner, stipulations have been filed by Lagan & Mackison, Boyd, Wilmot & Co., David Hughes, Moran, Noble and Woods, Canal Street Ferry, Fanny Stroop, Wilson, Fagan & Co., D. C. McCan, L. Q. C. Puckett, McCloskey, Bigley & Co., J. M. Peterson, Jno. Hennessey, M. J. Taylor, Moffett & Brown, W'm H. Reynolds, England, Fallon & Co., Brady & Palmer, and Doughty & McHaffie.

The commissioner decides that equity requires that these interventions should be heard and considered, on condition that the intervenors pay all the costs which had accrued on their several interventions, including costs of reference, commissioner's fees, and for taking testimony prior to the filing of the stipulations.

The most serious question in the case, however, is this: Can materialmen, and furnishers of supplies, who had no lien on the boat *in specie*, come unto the admiralty to be paid out of the proceeds of in the registry where such payment is opposed?

196 There are cases where mere remnants and surplus in the registry have been paid over to such creditors.

In this case, however, the proceeds in the registry being above one-half the price for which the boat was sold, can, in no proper sense, be termed a remnant.

It has been urged before by counsel that to allow such an application of the funds as is claimed would be a great abuse of the admiralty jurisdiction.

Upon reason and authority, the force of the argument must be admitted.

For example: If a vessel should be libelled at her home port upon a claim for maritime wages of $50.00, and should be sold for $20,000, and the proceeds in the registry, amounting to $19,950, would be claimed by creditors of the owners who had no admiralty liens, it is obvious that by indirection the creditors would be extending and enlarging the jurisdiction of the admiralty court so as to embrace causes which could not have been enforced directly and in the first instance as against the vessel.

197 In my examination of the authorities on the subject I have found no case where the proceeds in the registry were allowed to be taken by parties who had no admiralty liens when such distribution was opposed by an owner and a creditor.

The rule, as deduced from the authorities, is that where there is an admiralty lien against a vessel the lien will follow the proceeds. Where there are no liens the proceeds will not be distributed if there is any opposition to such distribution.

In support of this view I refer to the following cases: The Maitland, 2 Hagg., 254; 7th Eng. Adm., p. 253; The Neptune, 30 Hagg., 130; 2 G. Robinson, 237.

The Maitland was sold in a suit of substraction of wages. An application was made by material-men to be paid out of the proceeds remaining in the registry for ropes, tackles, and provisions furnished. The admiralty judge, Sir C. Robinson, rejected the claim of the material-men.

He said: "There seems to be no solid distinction between
198 original suits against proceeds that are opposed."

In the case of the Neptune, 3 Hagg., 130, the question was fully and elaborately discussed. The court held that as neither the owner (who had become bankrupt) nor his assignee opposed the distribution of the proceeds, and that, as no opposition was made by any one except a pretended mortgage', whose mortgage was held to be invalid, the material-men might take the proceeds. This case was appealed, however, to the privy council, and on the appeal the decision of the inferior court was reversed. (2d Knapp, 94.)

On the authority of these decisions, which bear directly on the questions, I am of opinion that the proceeds remaining in the registry (the lien claims having been paid) cannot be distributed on the application or intervention of the parties now claiming them.

The question remains: What disposition shall be made of these proceeds? They must either be paid over to the owners or must be delivered by the registrar to the sheriff of the parish of Orleans,
199 who has seized in his hands or garnisheed all the proceeds remaining undistributed after the payment of the admiralty liens.

In the furtherance of justice, I therefore recommend that the court, after having distributed all the funds among the claims of which it has taken cognizance as admiralty liens, to order the registrar to deliver the balance of the proceeds, $6,776.06, to the sheriff of the parish of Orleans, to be held subject to the decree of the sixth district court of the parish of Orleans after the payment of costs here.

In the event the foregoing views shall not be adopted by the court, I then adhere to my original report, after deducting a pro rata of 1½ per cent. from each claim allowed in that report to pay the further costs accrued, to wit: of clerk, $20.00; commissioner's fees and for this report, $81.64.

Respectfully submitted,
(Signed) M. M. COHEN,
*Commissioner.*

*Order: Report fixed.—Extract from minutes of June 14th, 1871.*

J. D. COX ET AL. vs. ST'R LOTAWANNA. } No. 9642.

200 Ordered that the amended report of Commissioner Cohen this day filed be set for argument on to-morrow, 15th instant, at 11 a. m., and that the parties interested be notified thereof.

*Exception to report.—Filed June 14th, 1871.*

J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 9642.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

Now comes Jesse K. Bell, Logan & Mackison, David Hughes, Goodwill & Webb, R. J. Soules, Moran, Noble & Woods, Wilson, Fagan & Co., D. C. McCan & Son, L. Q. C. Puckett, E. Conery, Son & Co., McCloskey, Bigley & Co., J. M. Peterson, John Hennessey, Nicholas Theodore, S. H. Gatwood, M. J. Taylor, Moffett & Brown, W'm H. Reynolds, Crescent City Ice Co., George Coats, J. D. Pigniolo, England, Fallon & Co., Bradey & Palmer, Doughty & McHaffie, John Chaffe & Bro., and Christian & Hyatt, libellants and intervenors in the
201 above cause into court, and they oppose and except to the report herein filed by M. M. Cohen, commissioner, on the ground that it is not made in compliance with the order of this honorable court, which was that said commissioner should classify and report upon a tableaux of distribution of the proceeds of the sale of the steamboat Lotawanna among all the libellants and intervenors in this cause, and that said report does not in any particular comply with the order of this honorable court rendered in this case and referring it to said commissioner; that libellants and intervenors are all creditors of the said steamboat Lotawanna in the amounts claimed by them in their respective libel filed in this cause; that their claims are founded upon admiralty and maritime causes of actions and contracts; and that they have, by law, a maritime hypothecation and lien on the said steamer Lotawanna for the amounts of their respective claims, as set forth in their interventions; and that the report herein filed by M. M. Cohen, U. S. commissioner, is erroneous and illegal in not allowing the same; and they oppose and except to its homologation or approval on this ground;
202 they further oppose and except said report on the ground that it advises this court to turn over the proceeds of sale of the steamer Lotawanna to the sheriff of the parish of Orleans on a pretended garnishment from the 6th district court, no seizure or garnishment having ever been made in said cause; they further oppose its rejecting some of their claims, all of said claims having been filed by permission of the court, and some of them in actual final judgments over which the commissioner has no control; they also specially oppose the claim of said commissioner to a fee for this report, he having been paid for the report which he has never completed, and is not entitled to a second fee or compensation; they further oppose and except to the report herein filed on the ground that it is indefinite and uncertain, that it distributes nothing, passes upon nothing, refers to a previous report made by the same commission, which has been rejected and is illegal and unjust to appearers in every particular.

Wherefore appearers pray that this opposition and exception
203 to the report herein filed by M. M. Cohen, U. S. commissioner, on the 14th of June, 1871, be maintained, and that said report be rejected in toto; and appearers pray for such other and further relief and remedy as the nature of their case may require and as this court is competent to give.

(Signed) BENTINCK EGAN, *Proctor.*

*Amended report as to claim of Kennett & Bell.—Filed Nov. 21st, 1871.*

J. D. Cox et al.
*vs.*
St'r Lotawanna. } No. 9642.

United States district court for the district of Louisiana, in admiralty.

The supplemental and amendatory report of M. M. Cohen, to whom the above-entitled cause was referred, respectfully showeth that he has just discovered that in his first report he put down Kennett & Bell intervenors, whereas the fact is that they are not intervenors,

Wherefore he prays leave of this honorable court to file this
204 amendatory report, and hereby to correct said inadvertancy or error.

Respectfully submitted.

(Signed) M. M. COHEN, *Commis'r.*

*Opposition to report.—Filed November 23d, 1871.*

J. D. Cox et al.
*vs.*
St'm'r Lotawanna. } No. 9642.

United States district court.

Now comes the Canal Street Ferry Co., intervening libellants herein and file this their opposition to the amended report of the commissioner herein made, on the ground that, after suggesting to your hon. that all the funds on hand arrising from sale of boat, after paying the admiralty liens, be turned over to the sheriff of this parish, in default of which said disposition being ordered by your honorable court, then he adopts his original report, to which your opponent has already filed his opposition for this, that intervenors are placed in said report as pro rata creditors, when they are entitled, from the nature of their services, to be paid in full, and by preference, after the costs and charges hereof,
205 as will be seen from the evidence adduced on their intervention, it being for salvage:

Wherefore should your hon. fail to decree the turning over of the funds to sheriff, then this opponent prays that the original report be amended so as to place sub's among the first privilege creditors for full amount of their claim, viz, $100, and that, so amended, said report be approved and homologated, and funds distributed.

(Signed) JOHN P. SMITH, *Proctor.*

*Hearing and submission.—From minutes of November 23d, 1871.*

J. D. Cox et al.
*vs.*
St'r Lotawanna. } No. 9642.

This cause came up on the amended report of the comm'r of 14th June, 1871—B. Egan, Tho's Hunton, J. P. Smith, R. de Gray, Randolph, Singleton & Browne—and, after hearing argument, the court took time to advise.

*Order cumulating No. 9663.—From minutes of Nov. 23d, 1871.*

206 KENNETT & BELL
*vs.*
J. MORGAN & P. A. WORK. } No. 9663.

On motion of Tho's Hunton, proctor for libellants, ordered that this cause be cumulated with record No. 9642 of this court.

*Decree.—Entered December 1st, 1871.*

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

In this case, for reasons orally assigned, the court this day rendered the following decision:

It appearing that the admiralty liens, under which the steamer had been libelled, were paid under the decree of 8th May, 1871, and that the balance of the claims not being admiralty liens, the court is without jurisdiction as to the same under proceedings in rem:

It is therefere ordered, adjudged, and decreed that all the interventions in this cause, upon claims which are not liens in admiralty, be dismissed at the costs of respective parties.

207 That, after deduction of the costs incurred upon the admiralty liens and the fee of the commissioner for his report, the balance of the fund in the registry be paid over to the owner of the vessel, unless the same should have been previously seized in the hands of the party holding the same.

And it appearing that said proceeds had been seized on 8th May, 1871, under garnishee process from the 6th district court for the parish of Orleans, (the right to seize the registry fund not being recognized by the court,) the court in this instance directs that said seizure take effect from this day only. And it is therefore further ordered that after deduction of the proper charges the balance of the funds in the registry be sent over to the sheriff of the parish of Orleans under the process issued at the suit of Kennett & Bell vs. Joseph Morgan & Phillip A. Work, No. 2490 of the docket of said 6th district court.

The claims herein dismissed are the following: Jesse K. Bell, Logan & Mackison, Boyd, Wilmot & Co., David Hughes, T. Onley & Co.,
208 Goodwill & Webb, City of New Orleans, R. J. Soules, Ruth & Larkin, Moran, Noble & Woods, Canal Street Ferry Co., Fanny Strout, Wilson, Fagan & Co., D. C. McCan & Son, L. Q. C. Puckett, E. Conery & Son, McCloskey, Bigley & Co., J. M. Peterson, J. S. McDonald, Jno. Callon, John Hennessey, N. Theodore, S. H. Gatwood, M. J. Taylor, Moffett & Brown, William H. Reynolds, Crescent City Ice Co., George Coats, J. B. Pigniolo, England, Fallon & Co., Brady & Palmer, Doughty & McHaffie, Christian & Hyatt.

*Notice.—Issued Dec. 6th, 1871.*

NEW ORLEANS, *Dec. 6th*, 1871.

J. D. COX ET AL.
*vs.*
ST'M'R LOTAWANNA. } No. 9642.

TO THO'S HUNTON, Esq.:

You are hereby notified to be and appear at the clerk's office of this court, on Thursday the 7th day of December, 1871, at 1½ p. m., then and

there to test the solvency of Jno. S. Simonds, proposed surety on the appeal bond to be given by the intervenors, appellants in the above cause.

[SEAL.] (Signed) J. N. CHARBONNET,
*D'y Clerk.*

*Marshal's return.*

209 Received Dec. 7th, 1871, by the United States marshal; on same day, month, and year, served a copy of the within notice on Thomas Hunton, named herein, personally, in the U. S. court-room.

New Orleans, Dec. 7th, 1871.

S. W. REED,
*D'y U. S. Marshal.*

J. D. COX ET AL. *vs.* ST'M'R LOTAWANNA. } No. 9642.

*Motion of appeal presented December 6th, 1871—Order of court thereon.*

Let the question as to the amount of bond to be furnished in this case for a suspensive appeal be argued on to-morrow, 7th inst., at 11 a. m.

December 6th, 1871.

(Signed) E. H. DURELL, *Judge.*

*Order granting appeal with supercedeas.—Extract from minutes, Thursday, December 7th, 1871.*

J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 9642.

210 The motion by the intervenors for a suspencive appeal came up pursuant to order of 6th inst.—present, R. De Gray B. Egan, and Thos. Hunton—when, after hearing argument of counsel, it is ordered that the motion be allowed and spread upon the minutes, and it is as follows, to wit:

On motion of B. Egan, proctor for Moran, Noble and Woods, Wilson, Fagan & Co., D. C. McCan & Son., McCloskey, Bigley & Co., E. Conery & Son & Co., J. M. Peterson, through his executor W. D. Peterson, John Hennessey, L. Q. C. Puckett, Nicholas Theodore, S. H. Gatwood, M. J. Taylor, Moffet & Brown, W. H. Reynolds, Crescent City Ice Co., George Coats, J. B. Pigniolo, England, Fallon & Co., Brady & Palmer, Doughty & McHaffie, Christian & Hyatt, David Hughes, Lagan & Mackison, Jesse K. Bell, John Chaffe & Bro., and of R. De Gray, proctor for R. J. Soules, Boyd, Wilmot & Co., Ruth & Larkin, John Gallon, Goodwill & Webb, and of Trist & Oliver for J. S. McDonald, intervenors, libellants in the above cause, and on suggesting to the court that they are informed and believe there is error to their prejudice in the final judgment rendered by this honorable court *to* the above-entitled
211 cause on the 1st day of December, 1871, and signed on the 6th day of December, 1871, against them, dismissing their several claims in the above cause, and that they are aggrieved by said final judgment, and are desirous of taking a suspensive appeal therefrom to the

honorable the circuit court of the United States for the 5th circuit and district of Louisiana:

Therefore, it is ordered by the court that said intervenors be allowed a suspensive appeal, with supersedeas, from the above judgment, returnable in the honorable circuit court of the United States for the 5th circuit and district of Louisiana, on the 4th Monday of April, 1872, upon giving bond in the sum of $675, with good and solvent security, conditioned as the law directs.

*Appeal bond.—Filed December 7th*, 1871.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

Know all men by these presents that we, Moran, Noble & Woods, Wilson, Fagan & Co., D. C. McCan & Son, E. Conery, Son & Co.,
212 McCloskey, Bigley & Co., J. M. Peterson, through his executor W'm D. Peterson, John Hennessey, L. Q. C. Puckett, Nich. Theodore, S. H. Gatwood, W. J. Taylor, Moffett & Brown, W. H. Reynolds, Crescent City Ice Co., George Coats, J. B. Pigniolo, England, Fallon & Co., Brady and Palmer, Doughty & McHaffie, Christian & Hyatt, David Hughes, Lagan & Mackison, Jesse K. Bell, J. Chaffe & Bro., R. J. Soules, Boyd, Wilmot & Co., Ruth & Larkin, J. Gallow, Thos. Onley, Goodwill & Webb, J. S. McDonald, as principals, and John S. Simonds, as surety, are held and firmly bound unto Joseph Morgan, P. A. Work, Kennett & Bell et al., in the sum of $675, to be paid to the said Joseph Morgan, P. A. Work, Kennett & Bell & al., for the payment of which, well and truly to be made in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated at New Orleans the 7th day of December, 1871.

Whereas the above-named Moran, Noble & Woods, Wilson, Fagan & Co., D. C. McCan & Son, E. Conery, Son & Co., McCloskey, Big-
213 ley & Co., James M. Peterson, through his executor W'm D. Peterson, John Hennessey, L. Q. C. Puckett, Nicholas Theodore, S. H. Gatwood, M. J. Taylor, Moffett & Brown, W'm H. Reynolds, Crescent City Ice Co., George Coats, J. B. Pigniolo, England, Fallon & Co., Brady and Palmer, Doughty & McHaffie, Christian & Hyatt, David Hughes, Lagan & Mackison, Jesse K. Bell, John Chaffe & Bro., Goodwill & Webb, Boyd, Wilmot & Co., Ruth & Larkin, John Gallow, and Tho's Onley, and J. Sharp McDonald, have appealed to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from a final judgment of the district court of the United States for said district, rendered against them on the first day of December, 1871, and signed on the sixth day of December, 1871, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that, if the above-named appellants shall prosecute their appeal to effect, and answer all damages and costs, and satisfy whatever judgment may be rendered against them, if they failed to make this appeal good, then

214 this obligation to be void; otherwise, the same shall be and remain in full force and effect.

(Signed) MORAN, NOBLE & WOODS. [L. S.]
" WILSON, FAGAN & Co. [L. S.]
" JOHN HENNESSEY. [L. S.]
" BRADY & PALMER. [L. S.]
" BENTWICK EGAN, [L. S.]
*Proctor for Intervenors.*
" J. S. SIMONDS. [L. S.]
" RICHARD DE GRAY,
*Proctor for Boyd, Wilmot & Co.*
RUTH & LARKIN.
JOHN GALLOW.
" TRIST & OLIVIER,
*Proctors for J. Sharp McDonald.*

Signed, sealed, & delivered in presence of—
CH'S CLAIBORNE,
*U. S. Commissioner.*
DECEMBER 7TH, 1871.

*Order for appeal for Fanny Stroop et als.—Filed December 9th*, 1871.

United States district court.

J. D. COX ET ALS. vs. ST'B'T LOTAWANNA. } No. 9642.

On motion of Randolph, Singleton & Browne, proctors for in-
215 tervening libellants, Fanny Stroop and Canal Street Ferry Co. herein, and on suggesting that they desire to join in the appeal herein granted on Thursday, Decembey 7th, 1871, to Moran, Noble & Woods et als.—

Ordered that these intervenors be joined in said order of appeal on said 7th December, 1871.

*Petition of appeal & order.—Filed December 11th*, 1871.

To the honorable E. H. Durell, judge of the district court of the United States for the district of Louisiana:

The petition of William Moran, Roland H. Noble, and J. B. Woods, who compose the commercial firm of Moran, Noble & Woods; of John Wilson, William Fagan, and Benjamin Millie, who compose the commercial firm of Wilson, Fagan & Co.; of David C. McCan & Co., McCan, who compose the commercial firm of D. C. McCan & Son; of E. Conery, J. R. Mainge, and E. Conery, jr., who compose the commercial firm of E. Conery, Son & Co.; of P. G. and N. J. Bigley, who compose the commercial firm of McCloskey, Bigley & Co.; of Mathew D. Lagan, and James Mackison, composing the commercial firm of Lagan &
216 Mackison; of William Moffett and J. A. Brown, composing the firm of Moffett & Brown; of Thomas R. Brady and William H. Palmer, composing the firm of Brady & Palmer; of J. Goodwill and W. Webb, composing the firm of Goodwill & Webb; of John Chaffe and Charles Chaffe, who compose the commercial firm of John Chaffe & Bro.;

of Richard England and William Fallon, who compose the commercial firm of England & Fallon; of P. J. Christian and H. W. Hyatt; of William Doughty and J. McHaffie, who compose the commercial firm of Doughty & McHaffie; of John Ruth and Frank Larkin, who compose the commercial firm of Ruth & Larkin; of S. M. Boyd, W. G. Wilmot, and Thomas Faucett, who compose the commercial firm of Boyd, Wilmot & Co.; represent that there is error in the final decree rendered in this case on the first day of December, 1871, and signed on the sixth day of December, 1871, to their prejudice.

Wherefore they do respectfully pray, the bond on file being considered, that a suspensive appeal be allowed to them to the next term of the court and for all general relief.

217 (Signed) BENTINCK EGAN, *Proctor.*
( " ) R. DE GRAY, *Proctor.*

Considering the bond on file, it is ordered that the parties herein named be allowed a suspensive appeal as prayed for, returnable to the next term of the circuit court.

December 11th, 1871.

(Signed) E. H. DURELL, *Judge.*

*Motion to set aside the order granting appeal.—Filed December 20th*, 1871.

United States district court.

J. D. COX ET ALS. *vs.* THE ST'R LOTAWANNA. } No. 9642.

On motion of Thomas Hunton, proctor for Kennett & Bell, appellees, it is ordered that Moran, Noble & Woods et al., and Fannie Strout & others, appellants herein, show cause on Saturday, the 23d inst., why the suspensive appeal allowed herein should not be set aside and dismissed on the following grounds:

Because the bond filed by the appellants is insufficient in law to operate as a bond for a suspensive appeal; and because the bond
218 was not executed in conformity with the conditions imposed by the judge and the rules of the court.

It is further ordered that this rule be served on B. Egan, esq., and R. De Gray, esq., and Mess. Randolph, Singleton & Browne, proctors for the appellants.

Service accepted Dec. 20th, 1871.

(Signed) R., S. & BROWNE.
( " ) R. DE GRAY.

*Answer to rule to dismiss.—Filed December 23d*, 1871.

United States district court.

J. D. COX ET AL. *vs.* ST'B'T LOTAWANNA. }

And now comes Ruth & Larkin, Boyd, Wilmot & Co., J. Gallow et al., by their proctor, and for answer to the rule taken by Tho's Hunton, esq.,

returnable December 23d, 1871, to show cause why the appeal taken herein should not be dismissed, say that this court is without jurisdiction to hear said rule to dismiss; that the same can only be heard in the U. S. circuit court.

Wherefore they pray that said rule be dismissed with costs.

(Signed) R. DE GRAY,
*Proctor.*

219 *Submission of rule.—From the minutes of Dec. 23d, 1871.*

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

The rule to set aside the order of appeal in this cause came up—Tho's Hunton for motioners, B. Egan & R. De Gray for appellants—when, after hearing arguments, the court took time to advise and allowed the proctors till Wednesday, 27th instant, to file briefs.

*Motion and order to pay fees and costs.—Filed December 23d, 1871.*

United States district court for the district of Louisiana.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642. In admiralty.

On motion of , and on suggesting to the court that by the decree rendered in this case it was ordered that the fees and costs be paid out of the funds in court, and that there are in the registry $ ,

It is ordered that said fees and costs be forthwith paid.

220 *Rule to transfer funds in registry to circuit court.*

New Orleans, Tuesday, the 26th day of December, 1871. At chambers.

J. D. COX ET ALS.
*vs.*
ST'R LOTAWANNA. } No. 9642.

On motion of R. De Gray, proctor for Ruth & Larkin, Boyd Wilmot & Co., John Gallow, intervenors in the above suit, and on suggesting to the court that an appeal has been taken from a final decree rendered on the first day of December, 1871, with a supersedeas—

It is ordered that Thomas Hunton proctor, for Kennett & Bell, do show cause on the 10th day of January, 1872, at 11 a. m., why the funds now in court, being the proceeds of the sale of the Lotawanna, should not be transferred to the registry of the circuit court.

*Hearing and submission of rule.—Extract from minutes Jan'y 11th, 1872.*

Title.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

221 The rule to transfer the fund in this cause to the circuit court came up—R. De Gray for movers in rule; Tho's Hunton for def'ts in rule—when, after hearing argument, the court took time to advise.

*Order vocating suspensive appeal.—Extract from the minutes of Jan'y 25th, 1872.*

J. D. COX ET AL.
*vs.* } No. 9642.
ST'R LOTAWANNA.

For reasons orally assigned by the court—
It is ordered that the rule taken by Kennett & Bell, on the 20th December, 1871, be made absolute, and that the order granting a suspensive appeal in this cause be vocated and annulled.

*Rule on clerk.—Filed January 26th, 1872.*

United States district court.

J. D. COX ET ALS.
*vs.*
ST'R LOTAWANNA.

On motion of Kennett & Bell, by their proctor, Thomas Hunton,
222 and on suggesting to the court that there is a balance of proceeds of sale of the steamer Lotawanna in the registry of this court; that, under the final decree rendered herein, it was ordered that the said proceeds be paid over to the civil sheriff of the parish of Orleans, to be held subject to the attachment of Kennett & Bell, sued out in the sixth district court for the parish of Orleans, against Morgan & Work, the former owners of said boat,

And further representing that the said Kennett & Bell have obtained a judgment in personam against the said owners, and have issued execution thereon, and have seized and garnisheed the said proceeds, under an order of this honorable court, in the hands of Cha's Claiborne, clerk and registrar, which garnishment and seizure was made prior to any others—

It is ordered that Cha's Claiborne, registrar, do show cause on the 29th ins't why he should not pay over to the marshal the sum of $ ,
the said proceeds in his hands, to be applied to the said execution
223 of Kennett & Bell on their judgment aforesaid upon the said Kennett & Bell, releasing their said attachment in the sixth district for the parish of Orleans.

*Answer to rule.—Filed January 29th, 1872.*

J. D. COX ET AL.
*vs.* } No. 9642.
ST'R LOTAWANNA,

And now comes Charles Claiborne, clerk and registrar of this honorable court, and in answer to the rule taken by Kennett & Bell, to show cause why the funds in the registry in this case should not be paid over to the marshal, to be applied to the execution issued at the suit of Kennett & Bell vs. J. Morgan and P. A. Work, owners steamer Lotawanna, in personam, No. 9663, of the docket of this court, upon the said Kennett & Bell releasing their attachment issued at this suit against J. Morgan et als., No. 2490 of the docket of the 6th district court, says:

That there is now in the registry a balance of $6,513.87 arising

224 from the sale of the Lotawanna, the payments made by order of court being deducted.

That this fund had been seized and garnishee process served on me by various creditors in the following order:

MAY 8TH, 1871.—Seized by Kennett & Bell, in suit 2490, sixth district court above mentioned, for $9,648.42.

DECEMBER 1ST, 1871.—Seized again at same suit, 2490.

DECEMBER 5TH, 1871.—Seized at the suit of Kennett & Bell vs. J. Morgan et al., No. 9663 of the docket of this court, suit in personam, same amount as in 6th district court.

DECEMBER 5TH, 1871.—Seized at the suit of John Chaffe & Bro. vs. Joseph Morgan and P. A. Work, No. 9664 of the docket of this court, also suit in personam, for $10,896.56.

DECEMBER 7TH, 1871.—Seized at suit of Doughty & McHaffie, J. K. Bell, subrogated, vs. Joseph Morgan et al., No. 5215, seventh district court for $1,650.

DECEMBER 7TH, 1871.—Seized at suit of Wilson, Fagan & Co. vs. Jo's Morgan & P. A. Work, No. 24801 of the docket of fourth district court, for $802.50.

225 Under these circumstances respondent submits to the court, whether it would not be proper for Kennett & Bell to make all the creditors parties to the rule, calling on them also to show cause why said fund should not be paid over as herein prayed for.

(Signed) CH'S CLAIBORNE,
*Clerk & Registrar.*

*Order.—Chaffe & Bro. be made parties to rule.—From minutes of Monday, January 29th*, 1872.

J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 9642.

The rule taken by Kennett & Bell on 26th instant was called—Tho's Hunton, for pl'ffs in rule; clerk & registrar in p. p.—when, on motion of B. Egan, esq., proctor for John Chaffe & Bro., it is ordered that said Chaffe & Bro. be made parties hereto, and thereupon the rule was taken up, and after hearing pleadings, evidence, and argument, the court took time to advise.

*Order to pay.—From minutes of Tuesday, Feb'uary 6th*, 1872.

226 J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 9642.

Considering that Kennett & Bell are the first seizing-creditors of the funds in controversy,

Ordered that the rule by them taken on 26th ultimo be made absolute, and that upon the said Kennett & Bell releasing their attachment in the 6th district court for the parish of Orleans, the proceeds in the registry in this cause be applied first to the satisfaction of their judgment in this court against the late owners of the Lotawanna; the balance, if any, to be paid over to J. Chaffe & Bro., seizing-creditors next in rank.

*Motion for suspensive appeal presented and submitted, Feb'uary 7th, 1872.*

United States district court.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

On motion of Bentinck Egan, proctor for John Chaffe and Charles Chaffe, composing commercial firm of John Chaffe & Bro., and on
227 suggesting to the court that they are informed and believe that there is error to their prejudice in the final judgment and decree rendered on the motion or rule taken by Kennett & Bell, in the above-entitled cause on the 26th January, 1872, and decided by this honorable court on 6th day of Feb'uary, 1872, and that they are aggrieved by said final judgment or decree, and are desirous of taking a suspensive appeal with supersedeas to the honorable circuit court for the 5th circuit and district of Louisiana.

Therefore it is ordered by the court that the said John Chaffe and Charles Chaffe, composing the commercial firm of John Chaffe & Bro., be allowed a suspensive appeal, with supersedeas, returnable in the honorable circuit court for the fifth circuit and district of Louisiana on the , on giving bond and security conditioned according to law, in the sum of $ .

*Motion for appeal submitted.—Extract from the minutes of Wednesday, Feb'uary 7th, 1872.*

228 J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 9642.

B. Egan, esq., proctor for J. Chaffe & Bro., this day presented to the court a motion for a suspensive appeal from the decree rendered on the 6th instant in this cause. And the court took time to consider, and the amount of the bond to be given.

*Notice to Thomas Hunton, esq., attorney for Kennett & Bell.—Feb'uary 13th, 1872.*

COX
*vs.*
LOTAWANNA. } No. 9642.

To Thomas Hunton, esq., atttorney for Kennett & Bell:

John Chaffe & Bro. propose, as security on appeal-bond, Mr. Everett J. Hamilton, residing at 159 Jackson street, 4th district; keeps Virginia cotton-press. His solvency will be tested before me on Friday, Feb'uary 16th, 1872, at 10 a. m., in the clerk's office U. S. dist. court, La.

Feb'uary 13th, 1872.

(Signed) K. LOEW, *D'y Clerk.*

229 *U. S. marshal's return.—Feb'uary 13th, 1872.*

Received by the United States marshal Feb'uary 13th, 1872, and on the same day served a copy hereof on Thomas Hunton personally.

(Signed) JOHN FAHEY, *D'y Clerk.*

FEB'UARY 13TH, 1872.

*Notice to Thomas Hunton, esq., proctor for Kennett & Bell.—Feb'uary 16th, 1872.*

United States district court, district of Louisiana.

[Official business.]

CLERK'S OFFICE,
*New Orleans, Feb'uary 16th*, 1872.

J. D. COX ET AL.
*vs.* } No. 9642.
ST'R LOTAWANNA.

To Thomas Hunton, esq., proctor for Kennett & Bell:

You are hereby notified that John Chaffe & Bro. will produce, in the clerk's office of this court, on Monday, 19th Feb'uary, 1872, at 10 a. m., Mr. E. J. Hamilton, proprietor and owner of the Virginia cotton-press, corner of Thoupitoulas and Richard streets, residing at 159 Jack-
230 son street, 4th district, as surety on the appeal-bond to be given by them in above-entitled and numbered cause.

(Signed) J. A. CHARBONNET,
*D'y Clerk.*

*Marshal's return.*

Received Feb'y 16th, 1872. On the same day, month, and year served a copy of within notice on Thomas Hunton by handing the same to him personally at the office of the clerk of the U. S. district court.

(Signed) J. W. DE KLYNE,
*D'y U. S. Marshal.*

*Testimony of E. J. Hamilton.—Feb'uary 19th*, 1872.

J. D. COX ET AL.
*vs.* } No. 9642.
ST'R LOTAWANNA.

E. J. HAMILTON, sworn, says:

I reside 159 Jackson street, 4th district of this city; have resided here about two years; am proprietor of the Virginia cotton-press; owns one-half interest in that press; stands in my name; worth $100,000, of which I own half; sold the other half for $60,000. There is a mortgage on my half for $30,000. I am the owner of a mortgage-note for $20,000 upon the other half that I sold; would not take
231 $60,000 for the half I own, because I have put $2,000 worth of repairs upon the whole.

This press is not partnership property. My half stands in my own name exclusively; the other half, in the name of Lewis & Lynd. They bought from me, in July last, or June last.

Besides, I own real estate in Bossier Parish, Louisiana; am worth $50 or $60,000 over and above all my debts. Am not tutor to any minors, neither curator for any estate.

The only debt I have is the mortgage above stated.

(Signed) E. J. HAMILTON.

Sworn to and subscribed before me this 19th Feb'uary, 1872.
(Signed) K. LOEW,
*U. S. Comm'r.*

At this examination there was present B. Egan, proctor for Chaffe & Bro.

*Appeal-bond.—Filed Feb'uary 19th, 1872.*

UNITED STATES OF AMERICA,
*District of Louisiana*:

District court of the United States.—In admiralty.

232 J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 9642. Appeal-bond.

Know all men by these presents that we, John Chaffe & Bro., as principals, and E. J. Hamilton, as surety, are held and firmly bound unto the clerk of the United States district court, for the use of whom it may concern, in the sum of ten thousand dollars, to be paid to the said clerk, for the use aforesaid, for the payment of which, well and truly to be made, in lawful money of the United States, we bind ourselves and each of us, our, and each of our heirs, executors, administrators, jointly and severally, firmly, by these presents, sealed with our seals, and dated at New Orleans, the 19th day of Feb'uary, 1872.

Whereas the above-named J. Chaffe & Bro. have applied for an appeal to the next term of the circuit court of the United States for the 5th circuit and district of Louisiana, from the order of the district court of the United States for said district, made on the 6th Feb'uary, 1872, directing the proceeds in the registry in this suit to be paid over to Kennett & Bell, upon which application for appeal as yet no
233 decision has been made by the court:

Now, therefore, the condition of this obligation is such, that if the above-named appellants shall prosecute *his* appeal to effect, and answer all damages and costs, and satisfy whatever judgment may be rendered against *him* if *he* fails to make *his* appeal good, then this obligation to be void; otherwise the same shall be, and remain, in full force and effect.

(Signed) JOHN CHAFFE & BRO.
By JOHN CHAFFE. [L. S.]
( " ) E. J. HAMILTON.

Signed, sealed, & delivered in presence of—
(Signed) K. LOEW,
*D'y Clerk.*

*Order to pay, &c.—From the minutes of Monday, Feb'uary 26th, 1872.*

J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 9642.

For reasons orally assigned by the court—
It is ordered that the motion of the 26th December, 1871, to transfer the fund to the circuit court, and the motion of the 7th Feb'uary,

234 1872, for a suspensive appeal, be both overruled and denied; and that the fund in the registry be paid over in accordance with the decree of Feb'uary 6th, 1872, said fund amounting to $6,456.77.

RECORD NO. 9643.

THO'S A. ALLEN
*vs.*
ST'B'T LOTAWANNA. } No. 9643.

*Libel.—Filed December 30th*, 1870.

In admiralty.

To the honorable the judge of the United States district court for the district of Louisiana:

Thomas A. Allen, of New Orleans, State of Louisiana, late mariner on board of steamer Lotawanna, now lying in the port of New Orleans, in said district, and within the admiralty and maritime jurisdiction of the United States and of this honorable court, exhibits this his libel against said steamboat or vessel, whereof Nat. Puckett is, or lately was, master, her tackle, machinery, boats, apparel, and furniture, and against all persons lawfully intervening for their interest therein in a cause of substraction of wages, civil and maritime.

235 Therefore said Thomas A. Allen doth allege and articulately propound as follows:

That, on or about the 22d day of Feb'uary, A. D. 1870, the said steamer "Lotawanna," whereof Joseph Morgan was then master, being then in the port of New Orleans, and designed on regular voyages or trips upon the waters of the Mississippi and Red Rivers, and upon other waters within the admiralty and maritime jurisdiction of the United States and of this honorable court, to wit, from the port of New Orleans to the ports of Minden and Shreveport, and back again to the port of New Orleans, the said Joseph Morgan, then master of said steamboat, did hire and shipped this libellant to serve as first mate on said steamboat for and during said voyages and trips, at the rates as follows: Libellant was to receive one hundred dollars per month and board, when on voyage or in port, provided he was assisted by a second mate; if not so assisted, he was to receive one hundred and twenty-five dollars per month and board, as aforesaid; that he has subsequently

236 hired and shipped on said steamboat, under said contract, by Mr. Kountz, W. T. Boardman, Charles Boardman, and Nat. Puckett, all of whom had been masters of said boat on various trips and voyages by her made; and that under said Nat. Puckett, now master of said steamboat, this libellant was to receive one hundred and fifty dollars per month, under which contract he was hired and shipped, and served as first mate seventeen days in all, *of* which services in said capacity said boat was indebted unto libellants in the sum of at least nine hundred and ninety-five dollars, (the exact amount is not particularly stated,) being in the books of said boat.

2d. That the said steamboat Lotawanna continued to make said regular voyages or trips with cargoes of divers produce and merchandize, with the libellant on board, serving in said capacity as first mate until about the 14th December, 1870, when, having arrived at the port of New Orleans, the libellant was discharged without having been paid

the amount of wages due him, except about six hundred and
237 forty-one $\frac{40}{100}$ dollars, and having a balance due him of three hundred and three $\frac{60}{100}$ dollars, which, though *after* demanded, remains unpaid.

3d. That, during all of said trips or voyages, this libellant well and truly performed his duty as first mate on board said steamboat, and was obedient to all the lawful commands of her said masters and superior officers, and well and truly earned said wages, as stipulated.

4th. That all and singular the premises are true.

Wherefore this libellant prays that process in due form of law issue against said steamboat Lotawanna, her boats, tackle, machinery, furniture, and apparel, and that this honorable court will pronounce for the wages aforesaid, and decree the same to be paid with costs, and for all such other and further relief and redress as to right and justice may appertain, and as this court is competent to give in the premises.

(Signed) T. & J. ELLIS,
*Proctors.*
( " ) THO'S A. ALLEN.

Subscribed and sworn to before me this 29th day of Dec. 1870.
238 (Signed) W'M GRANT,
*U. S. Comm'r.*

*Account.*

*Steamboat Lotawanna to Tho's A. Allen, Dr.*

1870. To balance due for services as first mate from Feb'uary 22d to December 14th, 1870, three hundred and three dollars $\frac{60}{100}$ ..... $303 60

District of Louisiana.

THO'S A. ALLEN
*vs.*
ST'B'T LOTAWANNA.

Before W'm Grant, U. S. comm'r:

I, William Grant, U. S. commissioner, do hereby certify that I have examined the claim of Thomas A. Allen for wages as first mate on board of the steamer Lotawanna, and find that there is due him the sum of $303.60.

And the master of said steamboat having been duly summoned, and not answering, I do find good cause for issuance of admiralty process against the steamboat Lotawanna in favor of said Allen for the amount of his claim.

Dated at New Orleans, La., this 29th December, A. D. 1870.

239 (Signed) W'M GRANT,
*U. S. Com'r Dist. La.*

Court's fees, $7.87.

Let admiralty process issued as prayed for.
December 30th, 1870.
(Signed) K. LOEW, *D'y Clerk.*

*Default.—From minutes of Tuesday, Feb'uary 7th,* 1871.

T. A. ALLEN
*vs.*
ST'R LOTAWANNA. } No. 9643.

The delay allowed by law having expired, and no answer filed, after due monition and proclamation, on motion of E. D. Craig, proctor for libellant, it is ordered that all persons interested in the property seized be pronounced in contumacy and default, and the libel adjudged and taken pro confesso.

*Judgment.—From minutes of Friday, Feb'uary* 10*th,* 1871.

T. A. ALLEN
*vs.*
ST'R LOTAWANNA. } No. 9643.

240 By reason of the default entered on the 7th inst., and of the law and the evidence,

It is, on motion of E. D. Craig, esq., representing F. & J. Ellis, proctors for libellant, ordered, adjudged, and decreed that the libellant do have and recover judgment against the st'r Lotawanna, her tackle, &c., for the sum of three hundred and three $\frac{60}{100}$ dollars and costs of suit, and with the privilege upon said boat or her proceeds, secured him by law for seamen's wages.

RECORD NO. 9663.

*Libel.—Filed Feb'uary 6th,* 1871.

KENNETT & BELL
*vs.*
PHILIP A. WORK AND PROCEEDS OF ST'R LOTawanna. } No. 9663.

To the honorable E. H. Durell, judge of the district court of the United States for the district of Louisiana:

The libel and complaint of Alfred Q. Kennett and Jesse K. Bell, who lately composed the commercial firm of Kennett & Bell, of New Orleans, in the district aforesaid, against Philip A. Work and Joseph
241 Morgan, who are, or lately were, owners of the st'b't Lotawanna, and against the proceeds of sale of the said steamboat, now in the registry of this honorable court, in a cause of contract, civil and maritime.

And thereupon the said libellants allege and propounds as follows:

First. That at the date when the account filed herewith was created, and when the articles therein mentioned were furnished, the said steamboat was then owned by the said Work and Morgan, and was then engaged in commerce and navigation upon the river Mississippi and its tributaries.

That the said steamer being in the port of New Orleans on the 1st of November, 1869, and on the 9th of May, 1870, and on divers intermediate days, and being in need of stores and supplies to enable her to pursue her proper business of commerce and navigation, the master

thereof applied to libellants to furnish the said boat with the supplies, provisions, and other necessaries, which are set fourth and shown in the amount annexed, and libellants did furnish the same for the use of the said boat and owners, at the dates in the account mentioned, and
242 the same were furnished on the credit of the said boat as of the owners, and that the said supplies, strores, and necessaries and groceries furnished were fully worth the sum of nine thousand eight hundred and forty-eight $\frac{42}{100}$ dollars.

Third. That the said steamer could not have proceeded to make her voyages on the water aforesaid, and to have pursued her business, without the supplies mentioned in the preceeding article alleged.

Fourth. That libellants have repeatedly demanded payment of the said bill and account of the said owners, which they have failed to pay, to the damage of libellants to the amount thereof, with interest from May 9th, 1870.

Fifth. That all and singular the premises are true, and within the admiralty and maritime jurisdiction of this honorable court; in verification of which, if denied, libellants crave leave to refer to the proofs to be exhibited in this cause.

Sixth. Libellants further allege that the said steamer Lotawanna has been sold by an order of this court, since her seizure under the
243 libel of Cox et als.; that the proceeds of sale thereof are now in the registry of this court.

Wherefore libellants pray that process in due form of law, according to the course of courts of admiralty and of this honorable court in cases of admiralty and maritime jurisdiction, may issue against the said Joseph Morgan and Philip A. Work, late owners of the steamer Lotawanna, and that they may be cited to appear and answer all and singular the matters articulately propounded herein, and that this honorable court will pronounce for the demand and damages hereinbefore claimed, and condemn the said owners to pay the same, and will further order and decree that the libellants' claim be paid and satisfy out of the proceeds of sale of the said steamboat, now in the registry of this court, and such other relief to the libellants give, as to justice and law shall appertain, and condemned all parties intervening for their interest in said steamboat or proceeds in costs.

(Signed) THOS. HUNTON,
*Proctor for Libellants.*
( " ) ALFRED Q. KENNETT.

244 Sworn to and subscribed before me Feb'uary 6th, 1871.
(Signed) CH'S CLAIBORNE,
*U. S. Comm'r.*

Service accepted. New Orleans, March 20th, 1870.
(Signed) JOSEPH MORGAN.

*Judgment from default.—Minutes of Monday, 20th November,* 1871.

KENNETT & BELL
*vs.*
J. MORGAN & P. A. WORK. } No. 9663.

On motion of Thos. Hunton, esq., proctor for libellants, and on showing to the court that Joseph Morgan & Philip A. Work, part owners of

the steamer Lotawanna, have failed to answer the libel, though duly cited—

Ordered that judgment by default be entered against them, and that the libel be taken pro confesso.

*Order consolidating.—From minutes of Thursday, November 23d, 1871.*

KENNETT & BELL
*vs.*
J. MORGAN & P. A. WORK. } No. 9663.

On motion of Thos. Hunton, proctor for libellants—

245 Ordered that this cause be cumulated with record 9642 of this court.

*Citation to J. Morgan.*

United States district court.

KENNETT & BELL
*vs.*
J. MORGAN & P. A. WORK. } No. 9663.

The President of the United States of America to the marshal of the district of Louisiana, greeting:

You are hereby commanded to summon Joseph Morgan, part owner of the steamer Lotawanna, to comply with the demand of Kennett & Bell, contained in the libel, of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the district court of the United States of America for the district of Louisiana, holding sessions in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the 4th Monday of Feb'uary, 1871.

246 Witness the honorable E. H. Durrell, judge of the said court, at the city of New Orleans, this 6th day of Feb'uary, A. D. one thousand eight hundred and seventy-one.

K. LOEW, *D'y Clerk.*

Signed)

*U. S. marshal's return.*

Received this 8th day of Feb'uary, 1871, and on the 8th day of Feb'uary, 1871, served copies of the within citation, plaintiffs' petition, and documents annexed on the within-named Joseph Morgan, in the manner following, to wit, by delivering the same to him on person on board of the steamboat Fleta, at this city. New Orleans, Feb'uary, 8th, 1871.

(Signed) JAMES E. AYER,
*D'y U. S. Marshal.*

*Citation to P. A. Work.*

United States district court.

KENNETT & BELL
*vs.*
J. MORGAN & P. A. WORK. } No. 9663.

The President of the United States of America to the marshal of the district of Louisiana, greeting:

247 You are hereby commanded to summon Philip A. Work, part owner of the steamer Lotawanna, to comply with the demand of Kennett & Bell, contained in the libel, of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the district court of the United States of America for the district of Louisiana, holding sessions in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default, which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the 4th Monday of Feb'uary, 1871.

Witness, the honorable Edward H. Durell, judge of the said court, this 6th day of Feb'uary, A. D., one thousand eight hundred and seventy-one.

(Signed) CHARLES CLAIBORNE, *Clerk.*

*U. S. marshal's return.*

Received this 7th day of Feb'uary, 1871, and on the 7th day of Feb'uary, 1871, served copies of the within citation and accom-
248 panying libel on the within-named Philip A. Work, in the manner following, to wit, by delivering the same to him in person on board of the steamer Lizzie Hopkins, at this city.

New Orleans, Feb'uary 7th, 1871.

(Signed) JAMES E. AYER,
*D'y U. S. Marshal.*

*Judgment.*

KENNETT & BELL
*vs.*
P. A. WORK, J. MORGAN, & PROCEEDS OF S'T'R Lotawanna. } No. 9663.

On motion of Tho's. Hunton proctor for libellants, and on suggesting to the court that on the 26th inst. the libel in this case was taken pro confesso and judgment by default entered, since which time no answer has been filed—

It is ordered, adjudged, and decreed that said default be now confirmed, and that Kennett & Bell do recover and have judgment against the defendants, Jos. Morgan and Philip A. Work, late owner of the steamboat Lotawanna, in solido, in the sum of nine thousand eight hundred and forty-eight $\frac{42}{100}$ dollars, and costs of suit.

249 Fi. fa. issued December 5th, 1871. Not yet returned by marshal.

*Supplemental petition and interrogatories.—Filed Dec. 5th*, 1871.

KENNETT & BELL
*vs.*
P. A. WORK & J. MORGAN. } No. 9663.

United States district court.

To the honorable E. H. Durell, judge of the district court of the United States for the district of Louisiana:

The petition of plaintiffs respectfully show' that they have applied for a writ of fieri facias in the above case, and have obtained the same. They are informed that there are now in the hands of Charles Claiborne, clerk and registrar of this court, a large amount of monies, the proceeds of sale of the st'r Lotawanna.

That, under the judgment of this court, the said proceeds remain undistributed, and they pray, therefore, that the said Charles Claiborne be ordered to answer the annexed interrogatories, as garnishee, and for general relief.

(Signed) THO'S HUNTON,
*Att'y for Plaintiffs.*

250 Interrogatory to Ch's Claiborne.

Have you not in your hands the sum of $7,000, proceeds of sale of the steamer Lotawanna, belonging to the defendants?

Let Charles Claiborne, clerk and registrar of this court, be ordered to answer in writing, and within the legal delay, the interrogatories propounded to him.

December 5th, 1871.
(Signed) E. H. DURELL, *Judge.*

Service accepted. Dec. 5th, 1871.
(Signed) CHA'S CLAIBORNE,
*Clerk & Registrar.*

Notice of seizure received Dec. 5th, 1871, at 12 m.
(Signed) K. LOEW, *D'y Clerk.*

[S. B. Packard, U. S. Marshal.]

OFFICE OF UNITED STATES MARSHAL,
DISTRICT OF LOUISIANA,
*New Orleans, Dec. 6th*, 1871.

KENNETT & BELL
*vs.*
J. MORGAN & P. A. WORK. } No. 9663.

251 To Charles Claiborne, esq., clerk and registrar, United States district court, district of Louisiana:

Take notice that, by virtue of a writ of fieri facias issued in the *the* above-mentioned suit, I seized in your hands all moneys which you may now have in your possession, or under your control, belonging to the defendants, Jos. Morgan and P. A. Work, and arising from the sale of

the steamer Lotawanna in suit No. 9642, United States district court, which you will hand over to me.

New Orleans, Dec. 6th, 1871.

(Signed) JOHN FAHEY,
*D'y U. S. Marshal.*

*Rule to set aside seizure.—Filed December 6th, 1871.*

KENNETT & BELL
*vs.*
MORGAN & WORK. } No. 9663.

On motion of B. Egan, proctor for Joseph Morgan, one of the defendants in this cause,

It is ordered by the court that libellants do show cause on the 7th instant, at 11 a. m., why the writ of fieri facias issued in this cause should not be quashed, and the seizure released on the ground
252 that it was issued prematurely and before the expiration of the 10 days allowed him by law, to take a suspensive appeal from said judgment.

*Marshal's return.—Dec. 6th, 1871.*

And on 7th day of same month and year served a copy of the within rule, &c., on Kennett & Bell, named herein, by handing the same to Thomas Hunton, proctor, at his office, corner Camp & Gravier st.

New Orleans, Dec. 7th, 1871.

(Signed) S. W. REED,
*D'y U. S. Marshal.*

*Answer of garnishee.—Filed December 9th, 1871.*

KENNETT & BELL
*vs.*
P. A. WORK & JOS. MORGAN. } No. 9663.

United States district court.

Charles Claiborne, clerk and registrar of this honorable court, made garnishee herein, now comes and answers the interrogatory to him propounded as follows:

I have not in my hands the sum of $7,000 proceeds of the sale of steamer Lotawanna belonging to the defendants, but there is in the registry of the court, which is under the exclusive control of the
253 judge, the sum of $6,724.93 proceeds of sale of the said steamer, in the suit of J. D. Cox et al. vs. Steamer Lotawanna, No. 9642 of the docket.

This sum is subject to certain costs and charges.

(Signed) CH'S CLAIBORNE,
*Clerk and Registrar, U. S. Dist. Court Dist. of La.*

Sworn to and subscribed before me this 9th December, 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

RECORD NO. 9664.

JOHN CHAFFE & BRO.
*vs.*
JOS. MORGAN & P. A. WORK. } No. 9664,

*Libel in personam and bills.—Filed February 7th*, 1871.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The libel of John Chaffe & Bro., a commercial firm composed of John Chaffe and Charles Chaffe, residing and doing business in the city of New Orleans, against Joseph Morgan and Philip A. Work, late owners of the steamer Lotawanna, whereof Joseph Morgan was acting, at one time, and L. Q. C. Puckett another time, master, in a cause of
254 contract, civil and maritime, alleges as follows:

1st. That at various dates in the year' 1869 and 1870, the steamboat Lotawanna, a vessel of about 400 tons burden, whereof Joseph Morgan was master, and subsequently L. Q. C. Puckett, was employed in the business of commerce and navigation between the port of New Orleans, on the Mississippi River, and various ports and places on Red River, making about two trips a month.

2d. That at various dates in said years 1869 & 1870, the said boat being in the port of New Orleans, and the said owners in need of money to pay their drafts and notes given for the purposes and business of the said boat, and also to pay for stores sold and delivered to the boat, and also for labor, materials, and repairs made to the boat to enable her to prosecute her said voyages, the master and owners of the said steamboat Lotawanna applied to and borrowed from libellants various sums of money for the purpose of paying for said supplies, materials, and repairs, and other purposes connected with said boat and the prosecution of her said voyages, and also procured and induced
255 your libellants to pay drafts given by them and the master of said boat for business and purposes connected with her and her navigation, all of which will more fully appear by reference to the detailed account annexed to and made part of this libel.

3d. That the said Joseph Morgan and Philip A. Work owe libellants for various descriptions *and* merchandize, consisting of cotton, salt, &c., which they failed to deliver, as per bills of lading and agreement; all of which will more fully appear by reference to the detailed bill annexed and made part of this libel.

4th. That the said Morgan and Work are now indebted in solido to libellants in the full sum of ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars, with eight per cent. interest from the 23d of January, 1871, being the balance due them for cash advanced to pay drafts, for the purposes and business of the boat, and also to pay for supplies, materials, and repairs, and for freight not delivered, as stated above, the dates, amounts, prices, & particulars of which will more fully appear by reference to the detailed and itemized bill annexed to and made part
256 of this libel.

4th. That said steamboat has been seized and sold by virtue of process issued from this honorable court in the case of J. D. Cox et al. vs. Steamer Lotawanna, and her proceeds are now in the registry of this honorable court, and libellants have by law a lien and privilege for a portion of their said claim on said proceeds.

5th. That all and singular the premises are true and within the ad-

miralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore libellants pray that Joseph Morgan and Philip A. Work, owners of the steamboat Lotawanna, be severally cited to appear and answer this libel, and, after due proceedings had, they be condemned in solido to pay libellants the said sum of ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars, ($10,896.56,) with eight per cent. interest from 23d of January, 1871, with costs, and that libellants may be decreed to have a privilege on the proceeds of said boat for such portion of their said claim as it now seem' just and proper for the court to allow, and libellants pray for general relief.

257 (Signed) BENTINCK EGAN, *Proctor.*
( " ) JOHN CHAFFE.

Sworn to & subscribed before me this 7th Feb'uary, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Answer and confession of judgment by Joseph Morgan—Filed Feb'uary 7th*, 1871.

JOHN CHAFFE & BRO.
*vs.*
J. MORGAN & P. A. WORK. } No. 9664.

United States district court for the district of Louisiana.

Now comes Joseph Morgan, one of the defendants in the above cause, into court, and waiving a copy of the libel herein filed, and also waiving citation, and all legal delays, for answer to the said libel, alleges as follows:

That he is the owner of three-fourths of the steamboat Lotawanna, lately sold by an order of this honorable court, in the case of J. D. Cox et al. vs Steamboat Lotawanna, her machinery, tackle, apparel, and furniture, the proceeds of which sale are now in the registry of this honorable court.

258 That respondent admits that the facts stated in the I, II, III, IV, V, & VI articles of the libel are substantially true, and respondent hereby confesses judgments in favor of libellants for the sum ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars, with eight per cent. interest from the 23d of January, 1871, as claimed in said libel; and waiving all *loyal* delays, consents that the same may be signed immediately, and that execution issue on the same without delay.

(Signed) JOSEPH MORGAN.

Sworn to and subscribed before me this 7th February, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Judgment against Jos. Morgan.*

JOHN CHAFFE & BRO.
*vs.*
JOS. MORGAN & AL. } No. 9664.

On motion of B. Egan, proctor for libellants, and on exhibiting to the court the judicial confession of Joseph Morgan, one of the defendants—

It is ordered, adjudged, and decreed that John Chaffe & Bro
259 do have and recover judgment against the said Joseph Morgan, owner of three-fourths of the steamer Lotawanna, for the sum of ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars, and costs of suit, the question as to a privilege upon the proceeds of said boat being reserved for the further consideration of the court.

Judgment rendered Feb'uary 10th, 1871.

Judgment signed Feb'uary 11th, 1871.

(Signed) E. H. DURELL, *Judge.*

*Testimony for Doughty & McHaffie, J. K. Bell, John Chaffe & Brother.—Filed March 3d*, 1871.

J. D. COX ET ALS, *vs.* ST'R LOTAWANNA. } Nos. 9642 & 9664.

Testimony for Daughty & McHaffie, taken before K. Loew, U. S. commissioner, March 3d, 1871.

Present, B. Egan for Doughty & McHaffie, and J. P. Smith on behalf of Randolph Singleton & Brown, representing certain intervenors. R. De Gray . Mr. Hunton made his appearance and withdrew.

JESSE MCHAFFIE, being first duly sworn, says:

Am a member of the firm of Doughty & McHaffie, ship-car-
260 penters in New Orleans.

(Being shown a bill annexed to this intervention, says)—

It is correct in dates and amounts. It is for building a stage for the steamer Lotawanna. The price charged for it is $25.00, and it is reasonable and just, and is still due.

(Signed) JESSE MCHAFFIE.

Sworn to and subscribed before me this 3d March, 1871.

(Signed) K. LOEW, *U. S. Comm'r.*

On claim of Jesse K. Bell.

J. MCHAFFIE, sworn, says:

Member firm of Doughty & McHaffie. In July last I was employed by the steamer Lotawanna to make expensive repairs on her. My firm built the guard, repaired the wheel, buckheads, and various other repairs in cabin, steerage, rigging, and generally giving her a thorough overhauling so far as carpenter's work was concerned. My bill for this work was $2,350.

Shortly after the work was done, the boat paid me, on two different occasions, $700, leaving her indebted to us in the sum of $1,650.

261 In September last I brought suit against the boat, and had her seized for this debt, which was a privileged debt of the boat. Mr. Jesse R. Bell went security on the bond given for her release. Subsequently Mr. Bell paid me $1,700, our claim and costs of suit, and we subrogated him to all our rights and privileges against the boat. I know that Mr. Bell's claim, so far as it is based upon this subrogation, is correct. The work was necessary for the boat, and she could not well go*t*

without it. Credit was given to her, as she was engaged in commerce and navigation on the Mississippi River and tributaries. The prices charged by us were just and reasonable, and increased the value of the boat to the full amount of the work done by us.

(Signed) JESSE McHAFFIE.

Sworn to & subscribed before me March 3d, 1871.

(Signed) K. LOEW,
*U. S Comm'r.*

In suit No. 9664.

JOHN CHAFFE, being first duly sworn for John Chaffe & Bro., libellants, says:

262 (Being shown the bill annexed to libel, says:)

It is correct in dates and amounts. The total amount now due is $10,856.41 as per statement marked "A," and the further sum of $61.62 as per statement, marked "B."

It is for money advanced by us to pay drafts for purchases of the boat, also to pay drafts given for materials and supplies furnished the steamer Lotawanna and repairs made on her, and also for freight shipped to and by me, and not delivered. All of which is set forth in the bill.

Also for insurance premiums paid by us for the boat for insurance on her.

Our house is a commission-house in New Orleans. We have done a large part of the business of the boat.

The item of 15th January, 1870, 23 sacks of salt, not delivered and shipped by us, is correct. It is for $52.90. The salt was shipped by us and not delivered. Item, 20th January, 20 sacks corn, 10 sacks oats, not delivered, $78.17, is also correct. Item, Feb'uary 23d, due

263 bill for agency commission, $970.99, is correct; commission, agents, on consignments to and from us. Item, March 15th, for $14.75, is correct. It was for freight-bill paid by us to the boat and not due. Item, 1st May, $49.47, is also correct. Item, 25 May, value of 5 b. cotton shipped to us and not delivered, is correct. Amount, $507.74. Item, July 1st, $49.47, is correct. It is for indorsement due and paid by us. No funds of the boat in hand to meet the bill. Item, 26th October, $6.86, short freight, not delivered, is correct. Item, 30th November, $75, paid for caulking done in October, is also correct. Item, 23d January, 1871, $705.15, balance interest is also correct.

The whole bill is correct, although I have not enumerated all the particular items, which speak for themselves. We allowed interest to the boat and charged her interest. Our claim against her now is, as stated above, $10,918.03.

The details of our bill for short freight will be found in the four bills annexed to libel and marked respect*fully* 1, 2, 3, 4.

264 Cross-examined:

All the money*s* advanced by us, and stated in the bill, was for the use of the boat. It was so stated to us by the officers of the boat.

Did not see the money paid out for the use of the boat. The amount paid to Joyce was to pay an account due him by the Lotawanna for money advanced by him.

(Signed) JOHN CHAFFE.

Sworn to & subscribed before me March 3d, 1871.
(Signed) K. LOEW,
*U. S. Comm'r.*

*Judgment by default against P. A. Work.—From minutes of Tuesday, May 23d, 1871.*

JOHN CHAFFE & BRO.
*vs.*
J. MORGAN & P. A. WORK. } No. 9664.

On motion of B. Egan, proctor for libellants, and on showing to the court that the defendant P. A. Work has failed to answer, though duly cited—
Ordered that judgment by default be entered against him.

*Judgment against P. A. Work.—From minutes of Thursday, June 1st, 1871.*

265 JOHN CHAFFE & BRO.
*vs.*
J. MORGAN & P. A. WORK. } No. 9664.

By reason of the default herein entered on the 23d ult., and of the law & the evidence—
It is ordered, adjudged, and decreed that John Chaffe & Bro. do have and recover from the defendant P. A. Work the sum of ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars and costs of suit—the question of privilege upon the proceeds of steamboat Lotawanna being reserved for further consideration of the court.

Fi. fa. issued Dec. 5th, 1871. Marshal's return filed March 14th, 1872.
(Signed) J. A. CHARBONNET,
*D'y-Clerk.*

*Fi. fa.—Issued Dec. 5th, 1871.*

Circuit court of the United States.

The President of the United States to the marshal of the district of Louisiana or his lawful deputy, greeting:

You are hereby commanded that you demand from Joseph
266 Morgan and Philip A. Work ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars, amount judgment, and the further sums of $13.25, clerk's costs; $20, proctor's fee, and $ , marshal's costs, cash; which the libellants lately recovered by judgment of the district court of the United States for the district of Louisiana; and if the same be not paid on demand, that then you cause the same to be made out of the personal estate of the said defendants in your district, if sufficient personal estate can be found therein; but if sufficient personal estate cannot be found in your district, that then you cause the sum to be made out of the real estate of said defendants in your district whereof they 'are owners on the 5th day December, 1871, into whose hands soever the same may have come; and that you have those moneys before our said court, to render to the said parties for the judgment aforesaid, on the 70th day from the date hereof, together with this writ.

Witness the honorable E. H. Durell, judge of the district court of the United States, this 5th day of December, 1871, and the 96th year of the Independence of the United States.

267 (Signed) CH'S CLAIBORNE, *Clerk*,
By J. A. CHARBONNET, *D'y Clerk.*

*Marshal's return.*

Received by the United States marshal December 5th, 1871, and on the same day, month, and year, served notice of seizure by virtue hereof on the d'y clerk of the United States district court, K. Loew, esq., of the monies in his hands belonging to the defendant. Service at 6 o'clock p. m. on that day. Returned not executed, except as above stated.

(Signed) JOHN FAHEY,
*D'y-Marshal.*

Notice of seizure received December 5th, 1871, at 6 p. m.

OFFICE OF U. S. MARSHAL,
*New Orleans, Dec. 6th*, 1871.

JOHN CHAFFE & BRO.
*vs.*
P. A. WORK & J. MORGAN. } No. 9664.

Charles Claiborne, clerk & registrar of the U. S. district court:

Take notice that, by virtue of a writ of fieri facias issued by the U. S. district court for the district of Louisiana in the above-entitled
268 suit, I hereby seized in your hands all moneys and other property now in your possession, or under your control, belonging to the defendants, Joseph Morgan and P. A. Work, to pay and satisfy the above writ, which you will hand over to me.

U. S. marshal's office, December 6th, 1871.

(Signed) JOHN FAHEY,
*D'y Marshal.*

*Petition and interrogatories for garnishment process.—Filed December 7th*, 1871.

JOHN CHAFFE & BRO.
*vs.*
JOSEPH MORGAN & P. A. WORK. } No. 9664.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The petition of John Chaffe & Bro., libellants in the above cause, respectfully represents that they have caused a writ of fieri facias to be issued on their judgment against Joseph Morgan and P. A. Work, defendants in the above cause, and have caused a seizure to be made in the hands of the clerk of this honorable court, Charles Claiborne,
269 and that they are desirous of making said clerk, in his individual capacity, and also as registrar of this court, garnishee.

Wherefore they pray that said Charles Claiborne, clerk and registrar of this honorable court, be made garnishee, and ordered to answer the annexed interrogatories.

(Signed) BENTINCK EGAN,
*Proctor for Libellants.*

Interrogatory 1st. Have you in your possession, or under your control, any property or money belonging to defendants in fieri facias? If yea, is not the amount sufficient to satisfy libellants' judgment in this cause, interest, and costs of suit, $12,000?

Int. 2d. Is there not now in the registrar of your court, and under your control, the sum of $8,000, more or less, the proceeds of the steamer Lotawanna, belonging to the defendants? Was not the same decreed to be their property by a judgment of this court? Was not a seizure made in this cause in your hands on the 5th of December, 1871?

270 Let Charles Claiborne, clerk and registrar of this court, answer the interrogatories to him propounded on oath, in writing, and within the legal delay.

December 7th, 1871.

(Signed) E. H. DURELL, *Judge.*

Service accepted.

CH'S CLAIBORNE, *Clerk.*
By K. LOEW, *D'y Clerk.*

*Answer of garnishee.—Filed December 11th*, 1871.

JOHN CHAFFE & BRO. *vs.* J. MORGAN & P. A. WORK. } No. 9664.

United States district court.

Charles Claiborne, cited as garnishee herein, now appears and answers as follows the interrogatories propounded to him:

To the 1st interrogatory he says: I have not in my possession, or under my control, any property or money belonging to defendants.

To the 2d interrogatory he says: There is in the registry of the court, but not under my control, but that of the judge, the sum of $6,724.93, proceeds of the Lotawanna, sold in suit J. D. Cox
271 et al. vs. The Lotawanna, No. 9642 of the docket. The records of this court show that these defendants were the owners of the boat, and consequently the funds are the proceeds of their property.

A seizure was lodged in my hands in this cause on 5th December, 1871.

(Signed) CHARLES CLAIBORNE, *Clerk.*

Sworn to & subscribed before me this 11th Dec. 1871.

(Signed) K. LOEW,
*U. S. Comm'r.*

*Petition and interrogatories for garnishment.—Filed Jan'y 5th*, 1872.

JOHN CHAFFE & BRO. *vs.* J. MORGAN & P. A. WORK. } No. 9664.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The petition of John Chaffe and Chaffe, composing the commercial firm of John Chaffe & Bro., libellants in the above cause, respectfully represent that they have obtained a judgment in personam

272 against Joseph Morgan and P. A. Work, defendants in the above cause, for the sum of ten thousand and eight hundred and ninety-six $\frac{56}{100}$ dollars; that they have caused a writ of fieri facias to be issued on the above judgment, which is now in the hands of the United States marshal; and that they have reason to believe C. S. Sauvinet, civil sheriff of the parish of Orleans, has now or will have, by virtue of a judgment rendered by this court in the case of J. D. Cox et al. vs. Steamer Lotawanna, No. 9642, of the docket of this honorable court, money in his hands or under his control belonging to said defendants in this case, and that they are desirous of making C. S. Sauvinet, civil sheriff of the parish of Orleans, a garnishee, and that he be ordered to answer under oath and within the legal delay the annexed interrogatories.

(Signed) BENTWICK EGAN, *Proctor.*

Interrogatory 1st. Have you, or had you at the time of service or answering these interrogatories or since, in your possession or under your control, any property or money belonging to defendants in this suit?

273 Int. 2d. Did not the United States court render a decree on the 1st of December, 1871, in the case of J. D. Cox et al. vs. Steamer Lotawanna, No. 9642 of the docket of said court, ordering the proceeds of sale of the steamer Lotawanna, in the registry of that court, to be turned over to you as sheriff, under a seizure made by you on the 8th of May, 1871, in the suit of Kennett & Bell vs. Joseph Morgan & P. A. Work, No. 2490 of the docket of the 6th district court? If yea, what is the amount of said proceeds to be turned over to you under said judgment? Are they sufficient to pay libellants' claim and costs, say $11,000?

Let this petition be filed and let the garnishee therein named be ordered to answer the interrogatories in writing, under oath, within the legal delay.

January 5th, 1872.

(Signed) E. H. DURELL, *Judge.*

Received by the United States marshal January 6th, 1871, and on the same day, month, and year served a copy hereof on C. S. Sauvinet, civil sheriff, by handing the same to him in person, at his
274 office in this city.

(Signed) JOHN FAHEY,
*D'y Marshal.*

*Answer of garnishee.—Filed January 13th, 1872.*

Answer of C. S. Sauvinet, civil sheriff, made garnishee in the case of Chaffe & Bro. vs. Joseph Morgan and P. A. Work, and No. 9664 of the United States district court.

To the first interrogatory he answers: No.

To the second interrogatory: I do not know if the United States district court rendered any judgment on the 1st of December, 1871, in the case of J. D. Cox vs. Steamer Lotawanna. I have no proceeds of anything in my hands in case of Kennett & Bell vs. Joseph Morgan and P. A. Work, No. 2498 of the said district court. I cannot say anything

about the amount of said proceeds. I know nothing about the matte upon which I am interrogated.

(Signed) C. S. SAUVINET,
*Civil Sheriff.*

Sworn to and subscribed before me this 13th day of Jan'y, 1872.

275 (Signed) K. LOEW,
*U. S. Comm'r.*

*Petition and interrogatories for garnishment.—Filed January 25th*, 1872.

JOHN CHAFFE & BRO.
*vs.*
J. MORGAN & P. A. WORK. } No. 9664.

To the honorable E. H. Durell, judge of the United States district court for the district of Louisiana:

The petition of John Chaffe & Bro., libellants in the above cause, respectfully represents that they have obtained a judgment in personam in the above cause against Joseph Morgan and P. A. Work for the sum of ten thousand eight hundred and ninety-six $\frac{56}{100}$ dollars; that they have caused a writ of fieri facias to be issued on the above judgment, which is now in the hands of the United States marshal, and have reasons to believe that C. S. Sauvinet, civil sheriff of the parish of Orleans, will have in his hands and under his control the sum of six thousand three hundred and thirteen $\frac{87}{100}$ dollars, belonging to defend-
276 ants in this cause by virtue of a judgment rendered by this honorable court in the cause of J. D. Cox et al. vs. Steamer Lotawanna, No. 9642 of the docket of this honorable court, and petitioners are desirous of making C. S. Sauvinet, civil sheriff of the parish of Orleans, garnishee in this cause; and that he be ordered to answer, under oath, and within the legal delays, the annexed interrogatories.

Wherefore petitioners pray that said C. S. Sauvinet, civil sheriff of the parish of Orleans, be ordered to answer, under oath, and within the legal delay, the annexed interrogatories, and petitioners pray for general relief.

(Signed) BENTWICK EGAN,
*Proctor for Libellants.*

Int. 1st. Have you, or had you at the time of answering those interrogatories, or since, your possession or under your control any property, money, or credits belonging to defendants in the cause of Jos. Morgan & P. A. Work? If yea, what is their amount or value? Is it sufficient to pay libellants' claim and costs, say $12,000?

277 Int. 2d. Did not the United States district court render a decree, on the 1st of December, 1871, in the case of J. D. Cox et al. vs. Steamer Lotawanna, No. 9642 of the docket of said court, ordering the proceeds of sale of the steamboat Lotawanna in the registry of this court be turned over to you as sheriff, under a seizure made by you on the 8th of May, 1871, in the suit of Kennett & Bell vs. Joseph Morgan and P. A. Work, No. 2490 of the docket of the 6th district court? If yea, did not said proceeds, turned over to you by said decree, amount to the sum of six thousand three hundred and thirty-four $\frac{87}{100}$ dollars?

Let the within interrogatories be answered by the garnishee, as prayed for, under oath, in writing, and within the legal delay.
January 25th, 1871.
(Signed) E. H. DURELL, *Judge.*

Citation to garnishee, 25th January, 1872.

*Answer of garnishee.—Filed Feb'uary 1st*, 1872.

278 JOHN CHAFFE & BRO. *vs.* J. MORGAN & P. A. WORK. } No. 9664.

United States district court.

Answers of C. S. Sauvinet, civil sheriff, to the interrogatories propounded to him.

To the first interrogatory he answers: No; I never had in my possession anything belonging to the defendants, Joseph Morgan and P. A. Work, and I have nothing now in my hands belonging to them.
To the second interrogatory he answers: No; I do not know whether the United States district court have rendered any judgment in the case of J. D. Cox et al. vs. St'r Lotawanna, No. 9642 of the docket of said court.
In the case No. 2490 of the docket of the 6th district court, entitled Kennett & Bell vs. Jos. Morgan & als., a writ of attachment was placed in my hands, and I was directed to attach the property of the defendants, J. M. Morgan & als., in the hands of Charles Claiborne, clerk of the United States district court, to satisfy the said writ of at-
279 tachment, amounting to $9,848 $\frac{42}{100}$, but, from this writ of attachment, nothing ever came in my hands.
(Signed) C. S. SAUVINET,
*Civil Sheriff.*

Sworn to and subscribed before me this 1st February, 1872.
(Signed) K. LOEW,
*U. S. Comm'r*

*Citation to garnishee.—25th January*, 1872.

UNITED STATES OF AMERICA:

District court of the United States for the district of Louisiana.

JOHN CHAFFE & BRO. *vs.* J. MORGAN & P. A. WORK. } No. 9664.

To C. S. Sauvinet, civil sheriff, parish of , garnishee:
You are hereby cited, in the name of the United States of America and of the district court of the district, to declare on oath what property belonging to the defendant in this case you have in your possession, or in what sum you are indebted to him, and also to answer in writing under oath the interrogatories annexed to the libel, of which a copy accompanies this citation, within ten days from service hereof, other-

280 wise judgment will be rendered against you for the amount claimed by the libellant, with interest and costs, which delay *and* increased one day for every ten miles your residence is distant from New Orleans, the place where the court is held.

Witness the Hon. E. H. Durell, judge of our said court at the city of New Orleans, this 25th day of January, in the year of our Lord one thousand eight hundred and seventy-two, & the 96th year of American Independence.

(Signed) K. LOEW,
*D'y Clerk.*

*Marshal's return.—January 25th*, 1872.

On the same day, month, and year served a copy of this citation, with accompanying interrogatories, on C. S. Sauvinet, civil sheriff, parish of Orleans, by handing them to Jos. Presear, a d'y sheriff, in person, at his office in this city.

New Orleans, January 27th, 1872.

CHARLES R. STEEL,
*D'y Marshal.*

United States district court district of Louisiana.

281 I hereby certify that the foregoing 341 pages do form and contain a full, true, and complete transcrip' of all the material proceedings had, documents filed, and evidence adduced on the trial of the causes of J. D. Cox et als. vs. St'r Lotawanna, Thomas Allen vs. Same, Kennett & Bell vs. Jos. Morgan & P. A. Work & proceeds steamer Lotawanna, John Chaffe & Bro. vs Jos. Morgan & P. A. Work, numbered respectively 9642, 9643, 9663, & 9664 of the docket of this court.

In faith whereof I have hereto set my hand and the seal of our said court at New Orleans, in said district, this 18th day of March, A. D. 1872.

[SEAL.] (Signed) CHAS. CLAIBORNE, *Clerk.*

PROCEEDINGS IN U. S. CIRCUIT COURT.

*Motion to dismiss appeal.—Filed May 29th*, 1872.

United States circuit court.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA.

282 On motion of Hunton, proctor for Kennett & Bell, it is ordered, that the appeal, with supersedeas filed herein, be dismissed, because said appeal was discharged and dismissed by the district judge, and because the bond filed was not approved by the district judge, and because the appeal cannot be maintained in the supersedeas on the bond filed, and that the supersedeas should therefore be discharged.

*Hearing & submission of case.—Extract from the minutes of April term, 1872.*

NEW ORLEANS, *Wednesday, May 29th*, 1872.

Court met pursuant to adjournment. Present, Hon. W. B. Woods, presiding judge.

J. D. COX ET AL. *vs.* ST'R LOTAWANNA. } No. 6680.

This cause came up on the transcrip' of the record from the district court, R. De Gray & B. Egan, for libellants and appellants; Thos. Hunton for appellees; and the appellees filing motion to dismiss, after hearing the pleadings, evidence, and argument, the court took time to advise.

*Decree: from judgment-book.*

283 Circuit court of the United States, fifth circuit and district of Louisiana. April term, 1872.

NEW ORLEANS, *Monday, June 3d*, 1872.

Court met pursuant to adjournment. Present: Hon. W. B. Woods, presiding judge.

J. D. COX ET AL. *vs.* STEAMER LOTAWANNA. } No. 6680.

For reasons orally assigned, it is ordered that the decree rendered by the district court be affirmed; and it is now ordered, adjudged, and decreed by this court that the appeal taken in this case be dismissed, with costs.

Decree rendered June 3d, 1872.

Decree signed June 3d, 1872.

W. B. WOODS, *Judge.*

*Motion & order for an appeal.—From minutes of June 3d, 1872.*

J. D. COX ET ALS. *vs.* ST'R LOTAWANNA. } No. 6680.

On motion of Bentwick Egan, proctor for John Wilson, William Fagan, and Benjamin Miller, composing the commercial firm of
284 Wilson, Fagan & Co., of John Chaffe and Charles Chaffe, composing the commercial firm of John Chaffe & Bro., intervening libellants in the above cause, and on suggesting to the court that they are informed and believe that there is error to their prejudice in the final judgment or decree rendered by this honorable court in the above cause on the 3d of June, 1872, and that they are aggrieved by said final decree, and are desirous of taking a suspensive appeal therefrom, with supersedeas to the honorable Supreme Court of the United States,

Therefore it is ordered by the court that the said John Wilson, William Fagan, and Benjamin Miller, composing the commercial firm of Wilson, Fagan & Co., and John Chaffe and Charles Chaffe, composing the commercial firm of Jno. Chaffe & Bro., intervenors in the above cause, be allowed a suspensive appeal from the final judgment rendered

in the above-entitled cause, with supersedeas, returnable in the Supreme Court of the United States, on giving bond in the sum of five hundred dollars.

285 *Bond for appeal.—Filed June 3d*, 1872.

J. D. COX ET AL.
*vs.*
ST'R LOTAWANNA. } No. 6680.

Know all men by these presents that we, John Wilson, William Fagan, and Benjamin Miller, composing the commercial firm of Wilson, Fagan & Co.; also John Chaffe and Charles Chaffe, composing commercial firm of John Chaffe & Brother, and Roland H. Noble, are held and firmly bound, jointly and severally, unto Jesse K. Bell and A. Q. Kennett, composing commercial firm of Kennett & Bell, in the sum of five hundred dollars lawful money of the United States of America, to be paid to the said Jesse K. Bell and A. Q. Kennett, composing commercial firm of Kennett & Bell et als., heirs, executors, administrators, and assigns; for which payment, well and truly to be made, we bind ourselves, and each of us by himself, and each of our heirs, executors, and administrators, firmly by these presents, sealed with our seals and dated the 3d day of June, in the year of our Lord eighteen hundred and seventy-two.

286 Whereas John Wilson, William Fagan, and Benjamin Miller, composing commercial firm of Wilson, Fagan & Co., and also John Chaffe and Charles Chaffe, composing commercial firm of John Chaffe & Bro., have this day presented a motion to the honorable the circuit court of the United States for the fifth circuit, holding sessions in and for the district of Louisiana, praying for a suspensive appeal, with supersedeas, from a final judgment or decree rendered by said court on the 3d of June, 1872, in the case of J. D. Cox et als. vs. Steamer Lotawanna:

Now, the condition of the above obligation is that we, the above-bounden John Wilson, William Fagan, and Benjamin Miller, composing firm of Wilson, Fagan & Co., and also John Chaffe and Charles Chaffe, composing firm of John Chaffe & Brother, and Roland H. Noble, will well and truly pay to the said Jesse K. Bell and A. Q. Kennett, composing commercial firm of Kennett & Bell et als., the defendants in said appeal, all such damages as they may recover against us in case it should be decided that the said appeal was wrongfully obtained.

287 (Signed) JOHN WILSON, }
W'M FAGAN, AND } [L. S.]
BENJAMIN MILLER, }
*Composing firm of Wilson, Fagan & Co., and*
JOHN CHAFFE & } [L. S.]
CHARLES CHAFFE, }
*Composing firm of John Chaffe & Bro.,*
By BENTWICK EGAN, [L. S.]
*Their Proctor.*
ROWLAND H. NOBLE. [L. S.]

Signed, sealed, and delivered in presence of—
(Signed) F. A. WOOLFLEY.

Approved.

W. B. WOODS, *Judge.*

UNITED STATES OF AMERICA,
*District of Louisiana, ss:*

Personally appear' Roland H. Noble, who, being duly sworn, says that he resides in this city; that he is the surety on the within bond, and is worth the sum of five hundred dollars over and above all his debts and liabilities.

(Signed) ROWLAND H. NOBLE.

Sworn and to subscribed before me this 3d June, 1872, at New Orleans, La.

(Signed) F. A. WOOLFLEY, *Clerk.*

288 UNITED STATES OF AMERICA,
*Circuit Court of the United States,*
*Fifth Circuit and District of Louisiana:*

CLERK'S OFFICE.

I, Francis A. Woolfley, clerk of the circuit court of the United States for fifth circuit and district of Louisiana, do hereby certify that the foregoing 287 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of J. D. Cox et als. vs. Steamer Lotawanna, her boats, engines, tackle, apparel, furniture, &c., No. 6680 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orlerns, this 9th day of September, A. D. 1872.

[SEAL.] F. A. WOOLFLEY, *Clerk.*

[5-cent int rev. stamp affixed and canceled.]

I, E. H. Durell, United States judge for the district of Louisiana, do hereby certify that Francis A. Woolfley, whose name is signed to the above certificate as clerk of the circuit court of the United States for the fifth circuit and district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand, at the city of New Orleans, in said district, this 9th day of September, A. D. 1872.

E. H. DURELL, *Judge.*

[5-cent int. rev. stamp affixed and canceled.]

289 THE UNITED STATES OF AMERICA,
*District of Louisiana:*

The President of the United States to Jesse K. Bell and A. Q. Kennett, composing the commercial firm of Kennett & Bell, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington, on the first Monday of December next, pursuant to a motion for appeal & order of record, & filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, in the case of J. D. Cox et als. vs. Steamer Lotawana, wherein John Wilson, William Fagan, and Benjamin Miller, composing the commercial firm of Wilson, Fagan & Co.; also John Chaffe and Charles Chaffe, composing the commercial firm of John Chaffe & Brother, are appellants, and you

are defendants, to show cause, if any there be, why the judgment rendered against the said appellants, as in said motion for appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this third day of June, in the year of our Lord one thousand eight hundred and seventy-two.

W. B. WOODS, *Judge.*

(Indorsed:) United States circuit court. No. 6680. J. D. Cox et als. vs. Steamer Lotawana. Citation of appeal.

*Marshal's return.*

Received June 4, '72, by the U. S. marshal, and on the 5th day of June, 1872, served a copy of within citation of appeal on Jessie K. Bell, personally, at 54 Camp street, in the city of New Orleans.

New Orleans, June 24th, 1872.

S. W. REED,
*D'y U. S. Marshal.*

On this 24th day of June, 1872, personally appeared before me the subscriber, S. W. Reed, and makes oath that he delivered a true copy of the within citation as stated in his official return hereon.

S. W. REED,
*D'y U. S. Marshal.*

Sworn to & subscribed before me.

F. B. VINOT,
*U. S. Comm'r.*

(Indorsement on cover:) No. 233. John Wilson, William Fagan, and Benjamin Miller, as Wilson, Fagan & Co., and John Chaffe and Charles Chaffe, as John Chaffe & Brother, intervenors, appellants, vs. Jesse K. Bell & A. Q. Kennett, as Kennett & Bell. Louisiana C. C. U. S. Filed 4th November, 1872.

Received [illegible]

# Supreme Court of the United States.

**JOHN WILSON, WM. FAGAN and BENJAMIN MILLER,**
(As Wilson, Fagan & Co.)

**JOHN CHAFFE and CHARLES CHAFFE,**
(As John Chaffe & Brother, Intervenors, Appellants,)

***VERSUS***

**JESSE K. BELL and A. Q. KENNETT, as KENNETT & BELL.**

John A. Grow &
L. MADISON DAY,
*Of Counsel.*

Clark & Hofeline, Book Printers, 9 Bank Place, near Gravier.

# Supreme Court of United States.

**JOHN WILSON, WM. FAGAN and BENJAMIN MILLER,**
(As Wilson, Fagan & Co.)

**JOHN CHAFFE & CHARLES CHAFFE,**
(As John Chaffe & Brother, Intervenors, Appellants,)

*VERSUS*

**JESSE K. BELL and A. Q. KENNETT, as KENNETT & BELL.**

This is an appeal taken by John Wilson, William Fagan and Benjamin Miller, composing the firm of Wilson Fagan & Co., and also John Chaffe and Charles Chaffe, composing the firm of John Chaffe & Brother, from a decree rendered and signed on the 3d of June, 1871, by the United States Circuit Court, affirming a decree rendered in the United States District Court for the District of Louisiana, and dismissing their appeal with costs. R. p. 109.

The facts of this case, as shown by the record are, that on the 30th of December, 1870, J. D. Cox et als., filed a libel in the United States District Court for the District of Louisiana, against the steamer Lotawanna, claiming various sums due them for wages. See libel, R. pp. 1 to 3.

A warrrant was issued the same day, and the United States Marshal seized and took possession of the boat. R. p. 4.

On the same day an application was made to sell the boat as perishable property, and with the consent of Joseph Morgan, representing himself as her principal owner, it was granted. R. p. 5

And the boat was subsequently sold for $10,500. See report of M. M. Cohen, Commissioner, R. p. 65.

In the meantime there were about forty intervenors who filed claims for wages, materials, supplies furnished and money loaned for the use of the boat, and the owners individually; claiming in the aggregate $35,424.11. See Commissioner's report, R. pp. 65 to 67.

Among the interventions filed was one on behalf of Wilson, Fagan & Co., claiming $3091.20 for supplies furnished, etc. See libel and bills annexed. R. pp. 42 and 43. And John Chaffe & Bro., claiming $10,896.56 for money advanced to pay for stores furnished, also for labor, materials and repairs made on the boat to enable her to prosecute her voyages, and for merchandise, consisting of cotton, salt, etc., etc., which the boat had failed to deliver aocording to bills of lading. See libel, R. p. 98 and 99. These are the appellants in this cause. The last of them had filed an original libel against the owners of the boat, Joseph Morgan and P. A. Work, and obtained a judgment against both of them for the amount claimed. See R. pp. 99 and 101, for judgment against Morgan, and p. 102 for judgment against Work. The first was rendered the 10th of February, 1871, and the last on 10th of June, 1871.

This cause together with all others against the steamer Lotawanna, or her proceeds, were, by an order rendered by the court, consolidatad on the 4th of May, 1871, and referred to the United States Commissioner to report upon a tableau of distribution, and classify the various claims according to law. See motion, R. page 63.

On the 4th of May, 1871, the Commissioner filed his report setting forth that the

| | |
|---|---|
| Proceeds of sale amounted to - - - | $10,500 00 |
| That the costs of Clerk, Marshal, Registrar and Commissioner were - . - - - | 1,094 47 |
| Leaving for distribution among creditors | $9,405 52 |
| From this amount he deducts crews' wages | 2,629 47 |

For distribution among the third class, viz:

Supplies, materials and repairs - - $6,776 57

Thirty-five different creditors, whose claims amounted in the aggregate to $32,804.62, giving them 20½ per cent. on the dollar. See his report, R. pages 65 to 67.

Among the creditors whose claims were allowed by this report were Wilson, Fagan & Co. for meat, $3091.20; John Chaffe & Bro., $10,896.56 for cash advanced to pay for materials and supplies furnished the boat, and freight not delivered. These parties are the appellants in this cause.

There were three exceptions filed to the homologation of this report, by various creditors and on various grounds, one of which was particularly directed against the claim of Kennett & Bell, showing that they were indebted to the boat in the sum of $2626.57, instead of the boat being indebted to them. See the exceptions, R. page 69.

On the 11th May, 1871, the oppositions to the report were all dismissed, and said report was approved and homologated, and made the judgment of the court. See judgment of homologation, and approval of report, R. page 73.

On the next day, 12th of May, the decree of the previous day was revoked, the oppositions re-instated, except as to the fee of the Commissioner for $250, and the cause

referred back to the Commissioner for further proceedings and report; he taking due cognizance of the oppositions. See decree of revocation, R. page 73.

On the 14th of June, 1871, the Commissioner filed what he styles an amended report, in which, after adverting to a number of English decisions, he says: "The question remains, what disposition shall be made of these proceeds? They must either be paid over to the owners, or must be delivered by the Registrar to the Sheriff of the Parish of Orleans, who has seized in his hands, or garnisheed all the proceeds remaining undistributed after the payment of the admiralty liens. In furtherance of justice, I therefore recommend that the court, after having distributed all the funds among the claims of which it has taken cognizance as admiralty liens, to order the Registrar to deliver the balance of the proceeds, $6,776.06, to the sheriff of the Parish of Orleans to be held subject to the decree of the Sixth District Court for the Parish of Orleans, after the payment of the costs here.

"In the event of the foregoing views not being adopted by the court, I then adhere to my original distribution, viz: That the funds be distributed as set forth in that report."

He then winds up by claiming another fee of $81.64. See amended report, pages 74 to 76.

To this report there were two exceptions filed, one of which was on behalf of nearly all the creditors, and particularly the appellants, on the ground that it was not made in compliance with the order of court, which was that the Commissioner should classify and report upon a tableau of distribution of the proceeds of the steamer Lotawanna among the intervenors and libellants in this cause, and that said report does not in any particular comply with the order of court, rendered in the cause, and

referring it to the Commissioner; that libellants and intervenors are creditors of the said steamer Lotawanna; in the amounts claimed by them in their respective libels filed in this cause; that their claims are founded upon admiralty and maritime causes of actions and contracts, and that they have by law a maritime hypothecation and lien on the steamer Lotawanna for the amount of their respective claims, as set forth in their interventions; and that the report is erroneous and illegal, in not allowing the same. And they oppose and except to its homologation or approval on this ground. They further oppose and except to said report on the ground that it advises the court to turn over the proceeds of sale of the steamer Lotawanna to the sheriff of the Parish of Orleans, on a pretended garnishment from the Sixth District Court, no seizure or garnishment having ever been made in the said cause. They further oppose its rejecting some of their claims; all of said claims having been filed by permission of the court, and some of them in actual judgment, over which the Commissioner had no control. They also specially oppose the claim of the Commissioner to a fee for this report, he having been paid for the report he has never completed, and is not entitled to a second fee or compensation. They further oppose and except to the report on the ground that it is indefinite and uncertain; that it distributes nothing, passes upon nothing, refers to a previous report which had been rejected, and is illegal and unjust in every particular. They pray that the opposition and exception be maintained, and the report rejected in toto, and for such other and further relief and remedy as the nature of their case may require, and the court is competent to give. See exception and opposition to report, R. page 77.

On the 23d of November, 1871, the case of Kennett &

Bell vs. Joseph Morgan and P. A. Work, No. 9663 of the Docket of the United States District Court, was, on motion of Proctor for libellants in that cause, consolidated with the records No. 9642 of that court, (Cox et als. vs. Steamer Lotawanna.) See motion for that purpose, R. page 79.

On 1st December, 1871, the District Court rendered the following decree:

"In this case, for reasons orally assigned, the court this day rendered the following decision:

"It appearing that the admiralty liens under which the steamer had been libelled were paid under the decree of the 8th of May, 1871, and that the balance of the claims not being admiralty liens, the court is without jurisdiction as to the same under proceedings *in rem*. It is therefore ordered, adjudged and directed, that the intervenors in this cause, upon claims which are not liens in admiralty, be dismissed at the cost of the respective parties; that after deducting the costs incurred upon the admiralty liens, and the fee of the Commissioner for his report, the balance of the fund in the registry be paid over to the owners of the vessel, unless the same should have been previously seized in the hands of the party holding the same; and it appearing that said proceeds had been seized on the 8th of May, 1871, under garnishee process from the Sixth District Court for the Parish of Orleans, the right to seize the registry fund not being recognized by the court, the court in this instance directs that said seizure take effect from this day only. And it is further ordered that after deduction of the proper charges, the balance of the fund in the registry be paid over to the sheriff of the Parish of Orleans under the process issued at the suit of Kennett and Bell vs. Joseph Morgan and P A. Work, No. 2490 of the Docket of the

Sixth District Court. The claims dismissed are the following."

It then goes on to enumerate all the intervenors, and particularly the names of the appellants. See decree, R. page 79.

On the 6th of December, 1871, all the intervening libellants joined in a motion for an appeal from the above decree to the United States Circuit Court, and on the same day caused to be issued from the Clerk's office a notice directed to Kennett & Bell, notifying them to be and appear in the Clerk's office of the United States District Court on Thursday, the 7th of December, 1871, at 1½ o'clock, P. M., then and there to test the solvency of J. S. Simonds, proposed surety on the appeal bond to be given by the intervenors and appellants. This notice was received by the Marshal on the 7th of December, and served the same day upon Thomas Hunton, Esq., Proctor for Kennett & Bell, personally, in the United States Court room. The motion of appeal was ordered by the court to be fixed for the next day, 7th December, on the question of the amount of bond to be given. On that day the court fixed the amount of the bond for an appeal, with supersedeas, at $675. See notice and return, R. pages 79 and 80. Order and motion, for suspensive appeal, with supersedeas, R. pages 80 and 81.

On the sam day the appeal bond was executed and filed in the Clerk's office, with J. S. Simonds as security, in the sum of $675. See bond, R. pages 81 and 82.

On the 11th of December, 1871, the last day on which an appeal could be taken by law, with supersedeas, the appellants in this cause, together with all the other intervenors whose claims had been rejected by the above decree, filed a petition, praying to be allowed a suspensive appeal to the Honorable Circuit Court. On this petition

the court made an order, on the same day, in the following words: "Considering the bond on file, it is ordered, that the parties herein named be allowed a suspensive appeal as prayed for, returnable on the next term of the Circuit Court," 11th December, 1871.

(Signed) E. H. DURELL, Judge.

See petition and order, pages 82 and 83.

The object of this petition was to set forth the given name of each person composing the different firms, and appeal on their behalf.

On the 20th of December, the proctor for Kennett and Bell, made a motion to dismiss this appeal, on the grounds, because the bond filed by the appellants was insufficient in law to operate as a bond for a suspensive appeal; and because the bond was not executed in conformity with the conditions imposed by the Judge and the rules of the court. See motion to dismiss, R. page 83.

An answer to this rule was filed, in substance, that the court was without jurisdiction to hear the rule to dismiss; that the same could only be heard in the United States Circuit Court. R. pages 83 and 84.

A motion was made and allowed on the same day, by some person, to pay fees and costs. See motion and order. R. page 84. These fees had been opposed, and an appeal was then pending from the decree allowing them.

On the 26th December, a motion was filed by Proctor for some of the intervenors to transfer the funds to the registry of the Circuit Court. See motion, R. page 84. This motion was taken under advisement by the court.

On the 25th of January, 1872, the court for reasons orally assigned, ordered that the rule taken by Kennett & Bell on the 20th December, 1871, be made absolute; and the order granting a suspensive appeal be vacated

and annulled. See order vacating suspensive appeal, R. 85.

On the next day, 26th of January, 1872, the Proctor for Kennett & Bell suggested to the court that there was a balance of proceeds of sale of the steamer Lotawanna in the registry of the court; that it was ordered to be paid to the civil sheriff of the parish of Orleans, subject to the attachment of Kennett & Bell, sued out in the Sixth District Court for the parish of Orleans, against Morgan and Work, the former owners of said boat; and that Kennett & Bell had obtained a judgment in personam against the owners, and have issued execution and seized and garnisheed the proceeds under an order of this court, (United States District Court,) in the hands of Charles Claiborne, Clerk, and Registrar.

It was ordered by the court, that said Charles Claiborne, Registrar, show cause on the 29th of January, why he should not pay said funds over, to be applied to the execution of Kennett & Bell, upon their judgment aforesaid, upon their releasing their said attachment in the Sixth District Court, for the parish of Orleans. R. page 85.

To this rule the Registrar filed an answer, setting forth various seizures of the funds in his hands, besides that of Kennett & Bell, and particularly one by John Chaffe & Bro., from the United States District Court, under a decree in personam, against Morgan & Work, owners of the steamer Lotawanna, for $10,896 56; and, also, Wilson, Fagan Co. vs. the same parties, from the Fourth District Court, and asking that they be made parties by the rule. See answer of Charles Claiborne, Clerk and Registrar. R. pages 85 and 86.

On motion of Proctor for John Chaffe and Bro., they were on the 29th of January, 1872, made parties to this rule. R. page 86.

On the 6th of February, 1872, the Court made the rule of Kennett & Bell absolute, and ordered the proceeds in the registry of the court to be paid to Kennett & Bell, in satisfaction of their judgment against the late owners of the steamer Lotawanna; and the balance, if any, to be paid over to John Chaffe & Bro. See judgment on rule, R. page 86.

The claims set up by Kennett & Bell, was for $9,842.42, and the money in the registry amounting to but $6,513.87. (See answer of clerk, R. pages 85 and 86,) consequently there was no balance for Chaffe & Bro.

On the next day, the 7th of February, 1872, John Chaffe and Charles Chaffe filed a motion for a suspensive appeal from the above decision, which the court took under advisement. R. page 87.

On the 19th of February, 1872, John Chaffe & Bro., after qualifying their security according to law, and with due notice to the Proctor for Kennett & Bell, filed their appeal bond in the Clerk's office of the court for $10,000. See motion for appeal, notice and appeal bond, R. pages 87, 88 and 89.

On the 26th of February, 1872, the court rendered the following decree: "for reasons orally assigned by the court, it is ordered that the motion of the 26th of December, 1871, to transfer funds to Circuit Court, and the motion of the 7th of February, 1872, for a suspensive appeal, be both overruled and denied; and that the funds in the registry be paid over, in accordance with the decree of February 6th, 1872,; said funds amounting to $6,456 77." See order, R. page 89 and 90. The funds were acccordingly paid over to Kennett & Bell.

The above is a history of the case as shown by the record. The court will observe that the funds in the registry kept rapidly diminishing. It was $6,776 06,

when the report of the Commissioner was filed, and after the crew's wages and all costs had been paid.

A mandamus was applied for to the Circuit Court to compel the District Court to grant this last appeal, but it was refused; this, however, does not appear in this record. The first appeal which had been allowed by the District Court was, however, prosecuted in the United States Circuit Court. The record was filed in that court in due time, and according to law, and it is from the judgment rendered by that court, affirming the judgment of the District Court, and dismissing plaintiff's appeal, taken by all the intervening libellants, in the case of J. D. Cox, et als. vs. steamer Lotawanna, that John Chaffe and Charles Chaffe, composing the firm of John Chaffe & Bro. and John Wilson, William Fagan and Benjamin Miller, composing the firm of Wilson, Fagan & Co., have taken this appeal. We will now argue the several legal points involved in the cause.

*First.* The case was originally referred to Mr. M. M. Cohen, Commissioner, to classify the claims, interventions and libels filed against the steamer Lotawanna and her proceeds, and report upon a tableau of distribution. In compliance with this order, the Commissioner filed a tableau of distribution and reported, paying, 1st the costs; 2nd, the crew's wages, and distributing the balance among all the intervenors, which gave them about 20½ per cent. on the dollar. R. pages 63 to 67.

This report was opposed on the ground that Kennett & Bell, who claimed $9,848 42; $5,763 33 of which were claimed to be for stores, and $4,055 10 for orders filled for planters in the country, in no way connected with the boat, or her business, were not creditors of the boat for any part of this sum, but that the whole of it had been advanced by them to P. A. Work and Joseph

Morgan, to pay their respective drafts, given by them for the purchase price of their respective interests in the steamer Lotawanna. R. page 69.

This report was, after its homologation, rejected and the matter referred back to the Commissioner, who then filed the extraordinary report in which he comes to the conclusion that the court was without jurisdiction to distribute the proceeds among the intervenors, because they were not admiralty liens, and advising the court to turn the proceeds over to the Civil Sheriff of the Parish of Orleans, under the garnishment process from the Sixth District Court, for the Parish of Orleans, at the suit of Kennett & Bell vs. Morgan & Work.

This can hardly be characterized as a report; it is advice, in the nature of a decision, and was actually adopted and made the basis of its decision by the court, but finally somewhat altered as we have seen above.

The claims of all the intervenors were for materials, supplies, repairs and other necessaries furnished to the boat, undoubted admiralty contracts, with the exception of Kennett & Bell.

Though under the 12th rule in admiralty, adopted by this court in 1845, they could not proceed *in rem* against this boat, if Louisiana was her home port, which is very questionable. No person filed any claim for this vessel, or her proceeds, according to the 26th admiralty rule. Consequently, there was no one entitled to be heard as owner, nor is there any evidence in the record to show where the owners reside. But the rule has lately been altered by this court, and they could now undoubtedly proceed *in rem;* nomatter where the owners reside. And the law and rules of this court, as they now exist, must govern, and not those that existed when the suit was brought.

See the Peggy, 1 Cranch, 231; Abbott's U. S. Practice, 2 vol. 231.

But this court had jurisdiction in this cause to distribute these proceeds among the intervenors, even admitting that the vessel was in her home port, and the parties not entitled to proceed *in rem*; this principle had been recognized by the United States District Court that decided this cause, in numerous cases. In fact, it had never been doubted, and appears to have been a well settled principle of admiralty law. Quoting from Parson on Shipping and Admiralty, vol. 2, page 231: "Where a vessel, or other property against which a suit is brought, is sold, and brought into the registry, the power of the court to distribute these proceeds is unquestioned;" and again on page 233: "When a lien is waived by intendment of law, or lost by neglect to enforce it within a proper time, it has been held, that the claim may be enforced against the proceeds." But some courts have gone farther, and it has been held that after the liens are all satisfied, out of the proceeds of the sale, the surplus funds remaining in court are subject as against the owner to the claim of the master, though he can only sue *in personam* for wages. And in another case a stevedore, who we have seen cannot sue *in personam, or in rem*, was allowed to have his claim paid out of the proceeds, after all other claims were satisfied. It has also been held that admiralty will take jurisdiction of matters of account between part owners in respect to surplus proceeds. Zane vs. Brig President, 4 Wash. C. C. 453; The Boston, Blatchford & Hall, 175; The Santa Anna, Blatchford, 79; Emerson vs. Proceeds of the Pandora, 1 Newb. 438; The Goldsmith, 1 Newb. 123.

But the intervenors in this cause have admiralty liens; they are material men, though not entitled to process *in*

*rem* in consequence of the 12th rule in admiralty, as it then existed, they were still all for claims founded upon admiralty contracts, which would create an implied maritime hypothecation and lien. See the case of the St. Lawrence, 1 Black, 522, in which this question was fully considered by Mr. Chief Justice Taney, as the organ of the court, where he allowed a material man a lien for supplies furnished in the home port of the vessel after the repeal of the first 12th rule in admiralty. Not on the ground that New York statute gave it, as the State could not confer jurisdiction on the United States Courts, but on the ground that the party had an admiralty contract, and his proceedings were commenced before the repeal of the 12th rule. And the court did not pretend to control the law by enacting the 12th rule, but only the process of the court; and that, though a party might not be entitled to proceed *in rem* in consequence of the 12th rule, yet he might have an admiralty lien under the constitution and laws of the United States.

And in the cases of the Kalorama and Custar, 10 Wallace, 204, The court held that it was no objection to the assertion of an admiralty lien against a vessel for supplies, that the owner was present, and ordered them.

A portion of the claim of John Chaffe & Bro. is for a breach of contract of affraightment; the boat having failed to deliver goods that were shipped on her, consisting of cotton, salt, etc., as per bill of lading, and the claim could have been proceeded with *in rem*, against the vessel, but to avoid unnecessary expenses, it was brought as an intervention.

The claim of the Canal Street Ferry Company, was for salvage; also, an admiralty claim, and one that could have been proceeded with *in rem*, but was filed as an intervention, to save expenses.

There were some others of a similar character, but were all dismissed, as we have shown above, and the proceeds of the steamboat turned over to the sheriff, according to the advice of the Commissioner. But subsequently, the decree, so far as it turned them over to the sheriff, was rescinded at the request of Kennett & Bell, as they found that they would be more likely to get them by another proceeding, which they brought in personam in the United States District Court.

It has been frequently held that money in the Registry of the United States Courts cannot be seized. Quoting from Parsons on Shipping and Admiralty, vol. 2, page 235, The proceeds in the Registry of an admiralty court, cannot be attached by process issued from a common law court. In the case of the Albert Crosby, Lush. Adm., 107. Dr. Lushington, said, "*I should certainly interfere by attaching any person who would meddle with any Registrar.*"

*Second.* The final decree was rendered by the District Court on the 1st of December, 1871. This was the one dismissing all the interventoins filed, among others that of the appellants, and turning the proceeds over to the sheriff of the parish of Orleans, under the attachment issued from the Sixth District Court, in the suit of Kennett & Bell vs. Morgan & Work. A motion of appeal was filed on behalf of all the intervenors, including the appellants, on the 7th of December, 1871, and bond given in an amount fixed by the court on the same day. On the 11th of December, 1871, the last day allowed by law for an appeal with supersedeas, a petition of appeal was filed by the same parties, setting forth the names of the persons composing the different members of the intervenors' firms, in conformity with a decision rendered by this honorable court, on which the court entered the following

order: "*Considering the bond on file, it is ordered that the parties herein named, be allowed a suspensive appeal as prayed for, returnable to the next term of the Circuit Court.*"

This order was signed on the same day, the 11th of December, 1871, the last on which these parties could by law, have taken an appeal with supersedeas. It was absolute and unconditional, and from the moment it was rendered the case was legally in the United States Circuit Court, and the District Court was divested of all jurisdiction in the matter.

In the case of Rubber Company vs. Goodyear, 6 Wallace, page 156, this Court says: "The question of sufficiency (of the security) must be determined, in the first instance, by the judge who signs the citation, but after the allowance of the appeal, this question, as well as every other in the cause, becomes cognizable here." Under this decision, the first question that arises is, was the appeal allowed by the District Court? This is answered by the order "considering the bond on file, it is ordered that the parties herein named, (in the petition for appeal to which the order was annexed,) be allowed a suspensive appeal as prayed for, returnable to the next term of the Circuit Court."

This order is absolute; it recognizes and approves the bond on file; it depends upon no conditions, and the moment it was signed the case was in the Circuit Court; the District Court was entirely divested of jurisdiction, and any motion to dismiss the appeal could only have been made in the Circuit Court, to which the case was transferred by appeal. Notwithstanding this, a motion was made in the District Court, by the Proctor for Kennett & Bell, to dismiss this appeal, on the ground that the bond filed by the appellants was insufficient to operate as a bond for a suspensive appeal, and because

the bond was not executed in conformity with the conditions imposed by the judge and the rules of the Court. R. page 83.

We have seen above that there were no conditions imposed by the judge. The bond was, on the contrary, approved by the judge, inasmuch as he says, "considering the bond on file," etc., etc.

The rule referred to in the motion, was the 21st rule of the District Court, which reads as follows:

"When an appeal is taken from a decree, the appellant shall give two days' notice to the adverse party of the person or persons offered as surety or sureties, their occupation, place of residence, and the time and place of giving the stipulation or bond for the appeal."

This rule is an absolute nullity on its face. It is in conflict with two acts of Congress, and if enforced, would have the effect of limiting the right of appeal to seven days instead of ten, as allowed by law. By the 23d section of the judiciary act of 1789, 1 Statutes at Large, page 85, it is provided, that until the expiration of which term of ten days, excution shall not issue in any case where a writ of error may be a supersedeas. This provision is extended to causes reviewable on appeal, by sec. 2d of act of 3d March, 1803, 2 Statutes at Large, 244. Under these laws it is clear that a party has ten days to apply for an appeal with supersedeas. Conkling's Treatise, 430; also, 4 Washington C. C. 388.

The decree in the case at bar was rendered on the 1st of December, 1871; the first appeal was taken by motion the 7th of December, and bond filed on the same day, and notice given in compliance with the above rule.

On the 11th December, 1871, the last day allowed by law for an appeal with *supersedeas*, the petition was filed by the same parties. On this petition the court made the

order we have referred to above. It was an impossibility for these parties to have complied with this rule of the District Court, when they filed their petition; nor were they required to do so by the court. The order was, "considering the bond filed," etc., etc. In the case of the United States vs. Pacheco, 20 H. 263, the court say: "The act of Congress authorizes the appeal at any time within five years, and the period allowed by law cannot be shortened by any rule or practice of court."

The rule of the District Court referred to above is clearly an absolute nullity.

The motion to dismiss was, however, made absolute by the District Court, and the appeal taken was ordered to be dismissed, as we have seen above; but as that court had no right to entertain the motion, or to take any step in the cause after granting the appeal as we have shown by the opinion of this court, rendered in the case Rubber Company vs. Goodyear, 6 Wallace, 156, quoted above. See, also, The Josephine, Abb's Adm. 481.

The appellants filed the transcript of the record in the Circuit Court on the regular return day and regularly prosecuted their appeal. This they had a right to. See Abbott's U. S. Practice, 2 vol. 239. And it is from a decree rendered by that court on the 3d of June, 1872, and signed on the same day, affirming the decree of the District Court, and dismissing the appeal taken by them and others, that they have appealed the case to this court.

*Third.* The District Court should have transferred the proceeds of the sale of the steamer Lotawanna to the Registry of the Circuit Court. When the appeal was granted it was from that moment entirely divested of all jurisdiction over the suit, and the case was actually pending in the Circuit Court. That court executes its own decrees; it has no power to remit the proceeding to the

District Court. Montgomery vs. Anderson, 21 How. 386; The Roarer, 1 Blachford, 1—. If the cause is one proceeding *in rem*, the *res* involved, (or the proceeds if converted into money,) passed from the District Court to that of the Circuit Court. Hence, after an appeal from a District Court to a Circuit Court, the former can make no order respecting the property, whether it has been sold and the proceeds paid into the court, or whether it remains specially in the hands of the Marshal. The Collector, 6 Wheat. 194; Davis vs. Seneca, Gilp. 34: The funds belonging to a case must be transferred with the papers to the Circuit Court; that court, from the time the appeal takes effect, is responsible for their safe-keeping and proper application; and the District Court has no longer any jurisdiction over the case, or any of its incidents. Hayford vs. Griffith, 1 Blatchford, 34.

*Fourth.* The claim of Kennett & Bell is on a libel in personam against Joseph Morgan and P. A. Work, as owners of the steamer Lotawanna and her proceeds in the registry for provisions and other necessaries, purporting to be set forth in a bill annexed to the libel; (*the bill however does not appear to have ever been filed; it is not in the record.* See libel, R. pages 92 and 93. By the 12th Rule in Admiralty they could only have proceeded *in personam*; even as the rule has been altered and now exists they cannot proceed *in personam* and *in rem* at the same time.

Service of this libel was accepted on the 29th of March, 1871, by Joseph Morgan. R. p. 93.

No citation or summons was ever issued to him nor was it waived. A citation or monition in the nature of a summons, to appear and answer to the suit, was essential before any further proceedings were taken against him. 2d Rule in Admiralty.

P. A. Work, the other defendant named in the libel,

was served with a copy of citation and libel on the 7th of February, 1871. R. p. 95.

On the 20th of Nov. 1871, the Proctor for Kennett & Bell moved for and obtained judgment by default against both the defendants, and that the libel be taken pro confesso. R. page 94.

On the 23d of Nov. 1871, the same proctor moved for and obtained an order consolidating that cause with record 9642, (the case of Cox et als. vs. Steamer Lotawanna) in which case the boat had been first seized and sold and the proceeds were held. R. p. 94.

Judgment was rendered as follows:

Kennett & Bell
vs.
P. A. Work and Joseph Morgan. } No. 9663.

On motion of Thos. Hunton, Proctor for libellants, and on suggesting to the court that on the 26th inst. the libel in this cause was taken pro confesso and judgment by default entered, since which time no answer has been filed: It is ordered, adjudged and decreed, that said default be now confirmed, and that Kennett & Bell do recover and have judgment against the defendants Joseph Morgan and Philip A. Work, late owners of the steamer Lotawanna, in the sum of nine thousand eight hundred and forty-eight dollars and forty-two cents and costs of suit. R. p. 95.

This judgment is an absolute nullity. It is without date, signature, or evidence to support it, and from the record it is impossible to ascertain when it was rendered. In the motion of the Proctor for the libellants, he *suggests* to the court, that a default was taken on the 26th inst. We find from the record that there was none taken on the 26th of any month; but there was one taken on the 20th of November, 1871. R. pages 93 and 94.

By the 29th Rule in Admiralty, evidence should have

been offered in support of the claim; the record does not contain a single syllable of evidence in support of this pretended claim. Again, this case having been cumulated with the others pending against the Steamer Lotawanna, or proceeds under the title of Cox et als. vs. Steamer Lotawanna, previous to the motion being made for a conformation of the default, no judgment could legally have been rendered by the court, except contradictorily with all the other intervenors, so as to have any effect against them or the proceeds of the boat; that they were claiming payment out of the proceds of the judgment was *res inter alias actas*, as to them, even supposing it was otherwise valid.

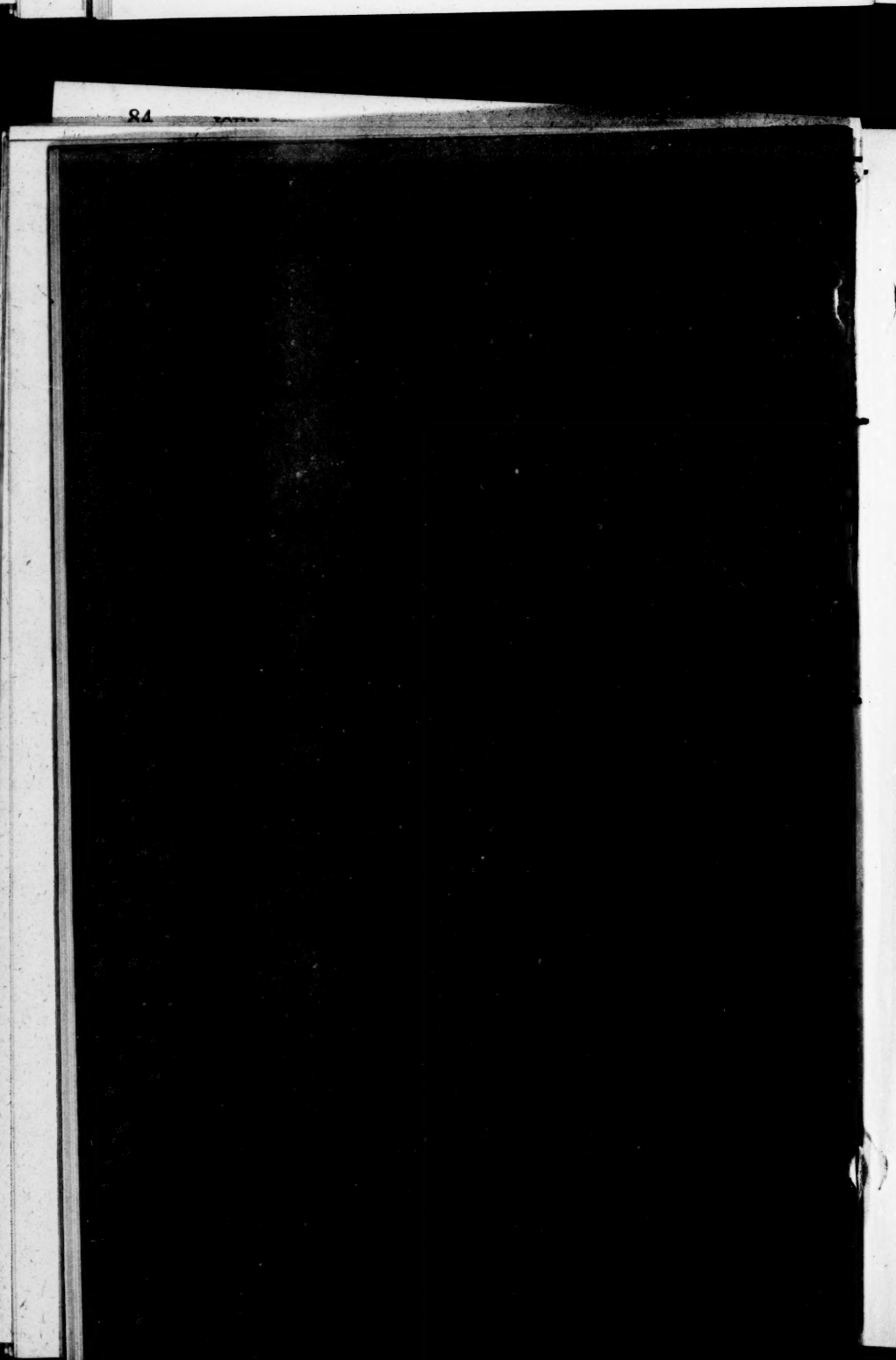
The claim of Wilson, Fagan & Co. is on an original intervention, claiming the sum of $3,091 20 for meat furnished to the boat, and bills of ship chandlery and painting, transferred and subrogated to them. See libel of intervention and bills, R. pages 42 to 46.

The correctness of this claim is fully established by the testimony of Wm. Fagan, R. page 50, also by that of R. A. Wilson, R. page 51.

The claim of John Chaffe & Bro. is $10,896 56 for money advanced to pay drafts and notes given for the purposes and business of the boat, also to pay for stores, labor, materials furnished to the boat, and repairs made on her; also for cotton, salt, oats, etc., which she failed to deliver according to bill of lading. See libel, R. pages 98 and 99.

The correctness of this claim is clearly shown by the testimony to be found in the R. pages 58 and 101.

This claim was originally brought as a libel *in personam* against Joseph Morgan and Philip A. Work, owners of the Steamer Lotawanna; the first being owner of three-fourths, and the last one-fourth. Morgan filed an answer



# Supreme Court of the United States.

**October Term, 1873.**

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*The Lotawana.*

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JOHN WILSON, ET AL.,
APPELLANTS,
*vs.*
J. R. BELL, ET AL.,
APPELLEES.

*No.* 233.

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**On appeal from the Circuit Court of the United States for the District of Louisiana.**

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*Brief for Appellees.*

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December 30, 1870, two mariners libelled the steamer *Lotawana* in the United States district court for the district of Louisiana, No. 9642, for wages.

Rec., p. 1.

The same day, on the petition of these libellants, the court ordered the boat to be sold.

Rec., p. 5.

Forty-seven intervenors made themselves parties to the suit. Twelve were for wages and thirty-five were for supplies, materials, labor, &c. The interventions are spread over the Record, and collected on pages 65 and 66.

But the commissioner afterwards admits that he included in error among the thirty-five intervenors, the names of Kennett & Bell, the appellees.

Rec., p. 78.

The boat sold for $10,500. After payment of costs of clerk, marshal, registrar, and the claims of all the mariners, there remained $6,776.06 in the registry of the court.

Rec., p. 66, at top.

The commissioner reported a dividend of 20½ *per cent.* to the thirty-five intervenors *pro rata*, on the ground "that "by the enrolment before me it is established that New "Orleans is the home port of the *Lotawana*, and that none "of the creditors for repairs and materials have the right to "libel the *Lotawana* in this her home port," &c.

Rec., p. 64, *at foot.*

On the judge's order on all parties to show cause why the commissioner's report should not be approved, there were oppositions filed by various parties; amongst others, one by Kennett & Bell, libellants in suit No. 9,663, "who "object to any payment to, or distribution among, the "general creditors of the owners, other than these libel-"lants, of the funds in the hands of the registrar, not "subject to admiralty liens; because the same have been "garnisheed and attached by the said Kennett & Bell "in the hands of the registrar, by process issuing from the "sixth district court of the parish of Orleans; and because

" the libellants have a lien upon the said funds superior " to the other general creditors."

Another opposition prayed that " the claim of Kennett " & Bell be entirely rejected and struck from said report."

Rec., pp. 68, 69.

On May 12, 1871, the court referred the cause back to the commissioner for further proceedings and report, he taking due cognizance of the opposition, (*s.*)

Rec., p. 73.

This amended report was filed June 4, 1871, and is on pp. 74 *et seq.* of the record. It recommends, after the payment of the admiralty-liens on the vessel, " that the court " order the registrar to deliver the balance of the proceeds, " $6,776.06, to the sheriff of the parish of Orleans, to be " held subject to the decree of the sixth district court of " New Orleans after the payment of costs here."

Twenty-six of the intervenors excepted to this report on the grounds, (*a*,) that the report does not comply with the order of the court; (*b*,) that intervenors are creditors; (*c*,) and their claims, founded upon admiralty and maritime causes of actions and contracts; (*d*,) that they have by law a maritime lien and hypothecation, and the report is erroneous and illegal in not allowing the same; (*e*,) that there was no seizure and garnishment from sixth district court. They pray for the rejection *in toto* of the United States commissioner's report.

See R., p. 77.

After trial, November 23, 1871, the district court decreed, December 1, 1871, (Rec., pp. 78, 79,) "that the balance of " the claims not being admiralty liens, the court is without

"jurisdiction as to the same under proceedings *in rem*, and "therefore that all the interventions in this cause upon "claims which are not liens in admiralty be dismissed at "the costs of the respective parties.

"And after deduction of the costs" * * * the "bal- "ance of the fund in the registry be paid over to the owner "of the vessel, unless the same should have been previ- "ously seized in the hands of the party holding the same. "And it appearing that said proceeds have been seized on "May 8, 1871, under garnishee process from the sixth "district court of New Orleans, (the right to seize the "registry fund not being recognized by the court,) the "court in this instance directs that said seizure take effect "from this day only. And it is, therefore, further ordered "that after deduction of the proper charges, the balance of "the funds in the registry be sent over to the sheriff of the "parish of Orleans, under the process issued at the suit "of Kennett & Bell *vs.* Joseph Morgan and Philip A. "Work, No. 2,490 of the docket of said sixth district court."

December 11, 1871, a suspensive appeal was granted from this decree. (Rec., p. 83.) But, on the allegations that the bond was insufficient in law to operate as a bond for a suspensive appeal, and was not executed in conformity with the conditions imposed by the judge and the rules of the court, Kennett & Bell obtained a rule upon the intervenors to show cause why the suspensive appeal should not be set aside and dismissed. (*Ibid.*) On January 25, 1872, this rule was made absolute, and the order granting a suspensive appeal was vacated and annulled.

Rec., p. 85.

Many other proceedings are spread over the record, resulting in the court decreeing the fund to Kennett & Bell

by virtue of their judgment in admiralty, *in personam*, against the owners of the *Lotawana*. (Rec., p. 86, at foot; p. 90, at top.) But none of these proceedings ever reached the circuit court. If anything was ever brought to the attention of the circuit court in due course of law it was, *perhaps*, the matters involved in the decree first set forth as of December 1st, 1871, and signed on the 6th of same month. The transcript of appeal from district court is certified as "of all the MATERIAL proceedings had," and signed March 18, 1872. (Rec., p. 108.) This transcript was filed in the circuit court March 28, 1872. (Rec., p. 1.) Kennett & Bell moved to dismiss on May 29, 1872, and on the same day the case was tried, "the appellees filing motion "to dismiss; after hearing the pleadings, evidence, and ar- "gument the court took time to advise;" and on June 3, 1872, the circuit court decided, "for reasons orally assigned, "it is ordered that the decree rendered by the district court "be affirmed; and it is now ordered, adjudged, and decreed "by this court that the appeal taken in this case be dis- "missed with costs."

Rec., p. 109.

Two of the original appellants from the district court to the circuit court, namely, Wilson, Fagan & Co., and John Chaffee & Co., have brought the present appeal.

Rec., 109, 110.

The suit of Kennett & Bell *vs.* Work & Morgan, the owners of the *Lotawana*, *in personam*, No. 9,663, was cumulated with the original proceedings *in rem*, No. 9,642, November 23, 1871. (Rec., p. 79, at top.) Their libel sets forth the proceeds of sale in the registry of the court; and, *inter alia*, prays for satisfaction of their claim out of said

proceeds in registry. (Rec., p. 93.) Their case was tried and proceeded simultaneously to judgment with the original libel No. 9,642.

Rec., p. 95.

The suit of John Chaffee & Co. *vs.* Work & Morgan, owners of *Lotawana, in personam*, No. 9,664, was filed February 7, 1871, (the day after No. 9,663;) was never cumulated with Nos. 9,642, 9,643, or 9,663. (Rec., p. 98, *et seq.*) Wilson, Fagan & Co. were naked intervenors in 9,642. No monition was issued. No service of process of any kind was made on the owners of the boat. No answer was filed. No judgment could be legally rendered in their favor for the amount of their claim either *in rem* or *in personam*; and none is found in this record.

This appeal should be dismissed on the following grounds, viz:

First. Because P. A. Work and Joseph Morgan, the owners of the *Lotawana* and of her proceeds in the registry, have not been made parties to this appeal. They were made parties to the appeal from the district to the circuit court, but are not before this court.

Smith *vs.* Clark, 12 Howard, 21.
The *Protector*, 11 Wall., 87, and cases quoted.

Nor are the other thirty and odd intervenors either appellants or appellees.

Masterson *vs.* Herndon, 10 Wallace, 416.

Second. Because Jesse K. Bell, one of the appellants from the district to the circuit court, is not made a party

to this appeal. His claim is distinct from that of the appellees, Kennett & Bell.

Rec., p. 67.

THIRD. The order of the circuit court merely affirming the decree of the district court, and nothing more, is not such a decree as the circuit court should render, and is not a final decree from which an appeal lies to this court.

Steamer *Lucille vs. Nancy Repass*, January 19, 1874.

And if the decree be one of dismissal for irregularities, there is no assignment of errors in the record to enable this court to review the action of the circuit judge. In point of fact, the present appeal is substantially an appeal from the district court to the Supreme Court, and merely, *in form*, an appeal from the circuit court.

FOURTH. Because the appeal allowed by the district court to the circuit court was set aside for want of the security necessary to its regularity; and the circuit court dis-

missed the appeal. Hence this honorable court is without jurisdiction; and the allowance of the appeal to this court by the circuit judge was immaterial. The proceeds of the property were never in the circuit court.

See Hayford *vs.* Griffith, 3 Blatchford, 34.
Callan *vs.* May, 2 Black, 541.
United States *vs.* Haynes, 2 McLean, 155.
The *San Pedro*, 2 Wheat., 142.

On the merits, the libel of Kennett & Bell, *in personam*, and execution on their judgment thereon obtained, with garnishee process attached, against Work & Morgan, the owners of the *Lotawana*, take precedence, in point of time, over similar action by other creditors; and hence the district and circuit judges properly awarded them the sum in the registry in satisfaction *pro tanto* of their claim.

The various garnishments are set forth, in the order of time, by the registrar, on pages 85 and 86 of the Record.

But even if wrong on this point, the appellants cannot complain, provided the judgment be correct, so far as they are concerned; for the question does not properly arise on this appeal; and besides, the owners of the steamboat, the real parties in interest, as well as a large majority of the creditors, are not before this court. An irregular and defective assignment of errors renders it difficult for us to know what real points of law are involved in this appeal, and intended to be relied on by appellants' counsel.

The point decided by the district court in its confirmation of the commissioner's report was, that where intervenors in admiralty have no admiralty lien the proceeds of the sale of the steamboat will not be distributed, if there is any opposition to such distribution.

The commissioner relies on the following English authorities:

The *Maitland*, 2 Haggard, 254.
The *Neptune*, 3 Haggard, 130, reversed in 2 Knapp, 94.

It is quite clear that the powers and jurisdiction of a bankruptcy or of an equity court would be engrafted upon our admiralty courts were they to attempt to make distribution of the proceeds of the sale in their registries in the mode contended for by appellees in all cases in which a surplus should result. This "would be a great abuse of "the admiralty jurisdiction." The argument of the commissioner is very strong.

Rec., p. 75.

The admiralty judge, when there is no admiralty lien, can only proceed to the distribution of the surplus in the registry when an act of Congress directs him so to do.

McLane *vs.* U. S., 6 Peters, 404.

He may give the surplus over *to the owners* after paying the admiralty liens; but cannot appropriate it for debts of owners arising from contracts purely personal.

Brackett *vs. Hercules*, Gilpin, 184.
Harper *vs.* The *New Brig*, *Ibid*, 545.

The ownership of the surplus may be contested in admiralty; or the surplus may be lawfully claimed in "supple-"mental libels and petitions by persons asserting them-"selves to be joint captors entitled to share in prize pro-"ceeds, and of custom-house officers for their distributive "shares of the proceeds of property seized and condemned "for breaches of the revenue laws."

See Andrews *vs.* Wall, 3 Howard, 568.

But the appellants are not libellants; they *are intervenors*. They can only of right do what they might have done had they been parties in the first instance.

Clement *vs.* Rhodes and others, 3 Add., 40.

Holding the money of the owners in the registry of the admiralty liable to the garnishee process under execution of the same or any other admiralty court is clearly within the necessary incidental jurisdiction of the admiralty. The analogy is perfect between the present case and that of—

Jones *vs.* Andrews, 10 Wall., 327.

We therefore respectfully pray that this appeal be dismissed, or the judgment affirmed with costs.

DURANT & HORNOR,
*for Kennett & Bell.*

WASHINGTON, D. C., 16*th February*, 1874.